

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,)
)
 Plaintiff,) CASE NO:
) 16-CR-206 (DRD)
 vs.)
)
 YAIRA TANIES COTTO-FLORES,)
)
 Defendant.)

TRANSCRIPT OF JURY TRIAL - DAY 6

THE HONORABLE JUDGE DANIEL R. DOMINGUEZ PRESIDING

TUESDAY, APRIL 24, 2018

A P P E A R A N C E S

For the United States:

Ms. Elba Gorbea, AUSA

For the Defendant:

Mr. Luis Rivera-Rodriguez, Esq.
Mr. Allan Rivera-Fernandez, Esq.

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1 (PROCEEDINGS COMMENCED AT 9:05 A.M.)

2

3 MS. GORBEA: Before we start today, just to let
4 you know that [REDACTED] just informed me that he is not going to
5 go to the game today, so he can be all day here in court.

6 THE COURT: I am hoping you are not going to take
7 all day.

8 MS. GORBEA: No, not all day, Your Honor, but
9 maybe it will take a little bit longer than noon if [REDACTED] is
10 going -- he is not going to the game, and he can stay here
11 longer.

12 THE COURT: Okay. Who are we missing?

13 MR. RIVERA-FERNANDEZ: Mr. Rivera, Your Honor. He
14 is parking.

15 MS. GORBEA: May we go up, Your Honor, just to let
16 the Court know what the Government intends to show the minor
17 today?

18 THE COURT: Yes. Go ahead. We can wait for
19 Mr. Rivera. Let the jury know that we are ready to go; that
20 there is one person that is parking the car.

21 Mr. Rivera, you are late.

22 MR. RIVERA-RODRIGUEZ: There was a lot of traffic.

23 THE COURT: I know.

24 MR. RIVERA-RODRIGUEZ: I tried to avoid it. It
25 got worse.

1 THE COURT: It got worse for you, huh, because the
2 parking lot was full.

3 All right. So she wants to advise the Court what
4 she intends to do today, and she has advised the Court that
5 the victim has determined not to go to the baseball game,
6 and prefers to finish with his testimony today.

7 MR. RIVERA-RODRIGUEZ: Okay.

8 THE COURT: So that means we are going to work
9 until the matter is finished today.

10 MR. RIVERA-RODRIGUEZ: Okay, Your Honor. That's
11 fine.

12 THE COURT: Now -- there is no jury here.

13 MS. GORBEA: Your Honor, good morning. AUSA Elba
14 Gorbea on behalf of the United States.

15 THE COURT: Yes, ma'am. Go ahead.

16 MS. GORBEA: What the Government intends to
17 present to the minor today are the communications related to
18 what the Government informed the Court as 413 evidence.
19 Basically --

20 THE COURT: Fine. Yes. But the Court is ready
21 for that because the Court found that, in fact, other
22 circuits have already determined that the other conduct that
23 is allegedly a prior occasion when they were together, the
24 Court has determined that that type of evidence does not
25 have to be in the complaint -- in the indictment.

1 And we had already located two cases, which are
2 the case of U.S. versus Resnick, 823 F .3d 887, 894, 895;
3 U.S. versus Erramilli, 788 F .3d 723 at page 728, also the
4 7th Circuit. There is U.S. versus Stokes, 726 F .3d 880,
5 page 96; U.S. versus Withorn, 204 F .3d 790 at page 794, 795
6 of the 8th Circuit; and U.S. versus Guardia, 135 F .3d 1326
7 at page 1329 of the 10th Circuit, 1998, which stands for the
8 proposition that Rule 413 supersedes the rule of 404(b)
9 restriction and allows the Government to offer evidence of a
10 defendant's prior conduct for the purpose of demonstrating a
11 defendant's propensity to commit the charged offense.

12 Now, I also noticed that your memorandum also
13 covers that subject. And you, I think, at page 5 -- I will
14 go back to that. Yes, you at the bottom of page 5 -- the
15 United States at page 5 also cite cases of the Fourth
16 Circuit; United States versus Kelly, Fourth Circuit; United
17 States versus Guidry of the Fifth Circuit, which I find most
18 convincing of all of the cases, which is at 456 F .3d 493;
19 United States versus Seymour, 468 F .3d 378 of the 6th
20 Circuit; United States versus Gabe of the Eighth Circuit.
21 So the Court is convinced that this matter is a proper
22 subject to bring forth.

23 Furthermore, in United States versus Guidry, at
24 page 502 -- and Guidry is at 456 F .3d 493, but at page 502,
25 citing the Supreme Court case of Shell Oil, citing that

1 case, it says, quote, "The conclusion that the terms
2 "offense" and "crime" in Rule 413 do not necessitate
3 conviction is supported by the plain language and
4 interpretation of Rule 404(b) to include uncharged conduct."

5 So as I stated yesterday at a sidebar, the Court,
6 notwithstanding, understands that to be absolutely sure of
7 what we are doing, the Court, however, will perform a
8 balancing test. Some circuits have required five elements
9 in the balancing test. I gave those elements to Counsel
10 last night, both counsel, you and Mr. Rivera.

11 So for the time being, the Court will authorize
12 it, but we have to perform a balancing test, all right.
13 Okay. Do we understand? Mr. Rivera?

14 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

15 THE COURT: Okay. All right. Very well.

16 MR. RIVERA-RODRIGUEZ: I understand the Court's
17 position, but in spite of that, we maintain our objection.

18 THE COURT: So the Court is inclined to accept,
19 but I have to do a balancing. All right. Do we understand?

20 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

21 THE COURT: Thank you.

22 MS. GORBEA: Yes, Your Honor, the Government
23 understands.

24 THE COURT: Okay. So very well. So we will see
25 where that takes us, all right.

1 MS. GORBEA: Thank you.

2 MR. RIVERA-RODRIGUEZ: We have received copies of
3 several color photographs provided by the prosecution --

4 THE COURT: Those are apparently --

5 MR. RIVERA-RODRIGUEZ: -- for the first time
6 today.

7 THE COURT: -- photographs -- I saw them this
8 morning too. They look like photographs of the phone of the
9 defendant, but that is to be identified, the cell phone.
10 The cell phone.

11 MS. GORBEA: Yes, the cell phone, Your Honor.

12 THE COURT: Okay. All right.

13 MS. GORBEA: And the other photographs --

14 THE COURT: Is that cell phone working? Or when
15 did you take that photograph?

16 MS. GORBEA: We have the -- yes, that is the
17 minor's phone, and that is Government's Exhibit Number 6.

18 THE COURT: Okay. Very well. But my question is
19 whether you can reproduce from the phone the photograph that
20 you made of, apparently, his phone.

21 I see that there are other phone numbers also
22 mentioned in there.

23 MS. GORBEA: Your Honor, may I see the photograph
24 that you are just seeing? Because I don't know exactly
25 which one it is.

1 THE COURT: This was handed to me this morning.

2 MS. GORBEA: Yes. It's just --

3 THE COURT: It was handed to her, and she handed
4 it to me for --

5 DEPUTY CLERK: This is the --

6 THE COURT: The Court has not accepted, obviously,
7 that.

8 DEPUTY CLERK: I believe this is ID 8.

9 THE COURT: This is ID 8.

10 MS. GORBEA: That was already provided in
11 discovery long ago, Your Honor, and those are screen shots.

12 THE COURT: Screen shots of his phone?

13 MS. GORBEA: Exactly, Your Honor.

14 THE COURT: Well, he is going to have to testify
15 to that.

16 MS. GORBEA: He will.

17 THE COURT: All right. Okay. So let's go.
18 Please bring in the jury. We are 25 minutes late.

19 MS. GORBEA: Just for the record, everything that
20 was handed to Mr. Rivera, the photographs, has already been
21 provided in discovery.

22 THE COURT: Okay.

23 MR. RIVERA-RODRIGUEZ: I was referring to the
24 photographs from the countryside.

25 MS. GORBEA: They were given.

1 THE COURT: Bring in the jury. Thank you.

2 (WHEREUPON, the following proceedings were had in
3 open court in the presence and hearing of the
4 jury:)

5 THE COURT: I have spoken to Counsel regarding
6 certain matters that will occur today. The first matter is
7 that the victim has determined not to go to the baseball
8 game, and to finish his testimony today. So we are going to
9 do that. Hopefully, maybe, we can work until 1:00 o'clock,
10 and then I will let you go, because she doesn't have any
11 further witnesses for today. She didn't expect to know, as
12 I found out very early in the morning, that the victim had
13 determined to comply with his obligations with the Court
14 rather than go to the baseball game.

15 So we are going to finish today. I am going to
16 try to get it over so that we can still provide you the
17 expectancy that you were finishing early today. All right.
18 Thank you very much. We have no further witnesses today,
19 all right, because the United States did not know until this
20 morning what he had determined, all right. Thank you. So
21 we are going to wait for her briefly.

22 Apparently -- do we have a copy also -- in your
23 desk, you will find --

24 COURT SECURITY OFFICER: Not yet.

25 THE COURT: Give each one a copy of the exhibit --

1 what is the number, Ana?

2 MS. GORBEA: Exhibit 13, Your Honor.

3 THE COURT: 13. Thank you. Exhibit 13. Does
4 Counsel have a copy? Counsel Rivera? He has a copy. All
5 right. And does Counsel here in court have a copy?

6 MR. RIVERA-FERNANDEZ: Yes, Your Honor, we do.

7 THE COURT: All right. Thank you. All right. So
8 I have also a copy so I can follow the matter.

9 So you may proceed.

10 MS. GORBEA: Your Honor, the Government is ready
11 to proceed.

12 THE COURT: You may proceed. Thank you.

13 MS. GORBEA: We have [REDACTED] in court.

14 THE COURT: Thank you. This looks a lot better
15 today than yesterday, at least. We have to thank also the
16 United States Court representative --

17 MS. GORBEA: We cannot hear you, Your Honor.

18 THE COURT: We have to thank the United States
19 Court representative because the image now looks much
20 better. All right. Thank you. You may proceed.

21 MS. GORBEA: Thank you, Your Honor.

22 Y.M.P.,

23 called as a witness herein, having been previously duly
24 sworn and having testified, was examined and testified
25 further as follows:

1 DIRECT EXAMINATION (Resumed)

2 BY MS. GORBEA:

3 Q. Good morning, [REDACTED].

4 A. Good morning.

5 Q. Yesterday I was showing you what had been marked as
6 Government's Exhibit 13, and we left the presentation at
7 page 131. Let's move on and turn the page to 161, line 3.
8 On line 3 --

9 MS. GORBEA: Your Honor, just to move on this a
10 little bit faster, may I state the from and the date and
11 read?

12 THE COURT: Yes, you can just read it to him and
13 wait until he finds it, because the document has already
14 been accepted into evidence.

15 MS. GORBEA: Yes, Your Honor.

16 THE COURT: Go ahead.

17 BY MS. GORBEA:

18 Q. Did you find it? Okay.

19 Line 3 is from "Mi Princesa" dated January 22,
20 2016, and it says, "It's horrible to have to wait, Babe. I
21 want to squeeze you and give you many kisses, and I cannot."

22 Do you recognize what is written there?

23 A. Yes.

24 Q. Moving over to page 186, line 3. Let me know when you
25 find it. Okay.

1 "Mi Princesa" on January 22, 2016, says, "I love
2 you. Let them say what they want and gossip -- whatever
3 gossip they want. I am not afraid of any of them, and they
4 are not going to separate me from you."

5 [REDACTED], what do you or did you understand this to
6 mean?

7 A. That it didn't matter what; that there was no way that
8 we were going to be separated from what we have.

9 Q. And what do you understand when Mrs. Cotto wrote to you,
10 "I love you. Let them say what they want, invent gossip"?
11 What do you understand that to be?

12 Let me rephrase the question.

13 Based on your knowledge, what does "inventing
14 gossip" mean?

15 A. The people in the office.

16 Q. Whose office?

17 A. Of the school.

18 Q. Going over to page 188, second line from bottom up.

19 "Mi Princesa," dated January 22, 2016: "You look at me so
20 nicely, Babe, and I get close to you on purpose to tease
21 you."

22 Do you remember this being written to you?

23 A. Yes.

24 Q. Mrs. Cotto?

25 A. Yes.

1 Q. On page 189, fourth line, from "Mi Princesa" dated
2 January 22, 2016. Found it?

3 "I want to kiss you and squeeze you like crazy."

4 Do you remember Mrs. Cotto writing this to you?

5 A. Yes.

6 Q. Going over to page 190, fifth line. Found it?

7 "Mi Princesa," January 22, 2016: "But you get in
8 after 3:00, and you have to say to me, Look, come over here,
9 you got me crazy, and you hold me real tight, Babe."

10 What, based on your understanding, was Mrs. Cotto
11 asking from you?

12 A. Can you repeat the question?

13 Q. Based on your understanding, what Mrs. Cotto was asking
14 from you when she wrote this to you?

15 A. That when I would arrive at 3:00, to grab her.

16 Q. At 3:00 of what?

17 A. 3:00 in the afternoon.

18 Q. Until what time you had classes when you were in ninth
19 grade?

20 A. Until 3:00.

21 Q. So based on your understanding, this was after school?

22 A. Yes.

23 Q. Moving over three lines down. "Mi Princesa," meaning
24 Mrs. Cotto, wrote: "Or tell me that I am pretty, Babe, that
25 little skirt, my love, you are mine. I don't know."

1 What is your understanding that Mrs. Cotto was
2 asking from you?

3 A. To tell her that she was pretty.

4 Q. Going over to page 199, last line. "Mi Princesa," dated
5 January 22, 2016, moving over to page 200, first line,
6 Mrs. Cotto said, "You will be mine."

7 Two lines down -- well, next line down, [REDACTED] --
8 that is you, correct?

9 A. Yes.

10 Q. You wrote, "You are going to be more mine than yours."
11 And the next line, "Mi Princesa" on January 22, 2016: "I
12 have no more patience. Think about what you want from me
13 because I can't wait anymore."

14 [REDACTED], based on what Mrs. Cotto wrote on this
15 line, what was your understanding of what Mrs. Cotto tried
16 to say to you?

17 A. To think whatever I wanted, but that she couldn't wait
18 anymore to do what she wanted to do.

19 Q. And based on your understanding, what is it that
20 Mrs. Cotto wanted to do?

21 A. Have sex.

22 Q. Going over to page 205, three lines from bottom up,
23 "[REDACTED]," on January 23, 2016: "Let's go, Babe."

24 Next line, "Mi Princesa": "Where to, Babe?"

25 Next line, "Mi Princesa": "To do it?"

1 Moving over to page 207, second line from bottom
2 up, "Mi Princesa," January 23, 2016: "Well, Babe, inside
3 the cinema, yes, it's normal to eat me up with kisses, and
4 we can do that. If it's to be with me, that cannot be
5 because that's difficult, Babe."

6 And you answered right after that line: "Eat you
7 up with kisses I can do anywhere. I want to be with you,
8 Babe."

9 Moving over to page 209, first line, "Mi
10 Princesa," January 23, 2016: "You will be officially mine."

11 [REDACTED], what was your understanding of what
12 Mrs. Cotto wanted to say to you here?

13 A. That when we would have sex, that we would officially be
14 something.

15 Q. Going over to line 5 from top to bottom, "Mi Princesa,"
16 same date, January 23rd, wrote: "I love you so much my
17 love, and I want it so much."

18 Next line: "You are the man of my life."

19 What was your understanding, [REDACTED], of what
20 Mrs. Cotto wrote (Reading in Spanish)?

21 A. That she wanted to have sex.

22 Q. Moving over to page 210, sixth line from top to bottom,
23 "Mi Princesa" wrote on January 23, 2016: "Baby, because
24 that means a lot, Babe. You don't see it that way because
25 you are a man, but it's something serious. You will be

1 inside me and a lot of things."

2 [REDACTED], what did Mrs. Cotto, based on your
3 understanding, want to say to you in this line?

4 A. I don't know.

5 Q. Moving over to page 212, second line, "Mi Princesa,"
6 January 23rd: "It doesn't bother me to hear you, Babe,
7 completely be conquered, but I will have you inside."

8 What was your understanding when Mrs. Cotto wrote
9 (Reading in Spanish)?

10 A. That we were going to have sexual relations.

11 Q. Going over to page 244, first line, "Mi Princesa,"
12 January 23, 2016, wrote: "But whatever, Babe, we already
13 know that we have to be careful."

14 What did you understand, [REDACTED], by that?

15 A. That we have to protect ourselves.

16 Q. How?

17 A. With a condom.

18 Q. Going over to page 252, fourth line, "Mi Princesa"
19 January 23 wrote: "Baby, what do you feel, my love,
20 jealousy because you can't be with me or, I don't know?"

21 [REDACTED] wrote: "What do you mean, jealousy, Babe?"

22 That was on the next line. And following that
23 line, "Mi Princesa" wrote: "Jealousy, Babe, because I feel
24 jealous. I don't want anyone close to you or looking at
25 you."

1 Going over to page 268, fourth line, "Mi Princesa"
2 wrote: "Today I want you like crazy."

3 Next line: "I like you like crazy."

4 And the next line: "I want you like crazy."

5 THE COURT: Counsel, could you ask him if
6 January 23rd was or not a school day.

7 MS. GORBEA: Yes, Your Honor.

8 BY MS. GORBEA:

9 Q. [REDACTED], January 23, 2016, was it a school day or not?

10 A. I don't remember.

11 MS. GORBEA: You heard the answer, Your Honor?

12 THE COURT: Yes. He doesn't remember.

13 BY MS. GORBEA:

14 Q. When Mrs. Cotto wrote the letters "CC", what does that
15 mean, based on your understanding?

16 A. All the way.

17 MR. RIVERA-RODRIGUEZ: I don't think that's the
18 answer -- the translation. I don't think that is the
19 correct translation.

20 MS. GORBEA: Yes, Your Honor.

21 THE COURT: We found that it is a Saturday.

22 MS. GORBEA: I didn't hear you well, Your Honor.
23 Excuse me.

24 THE COURT: We have found that it is a Saturday
25 pursuant to a calendar that we looked in the computer.

1 MS. GORBEA: Thank you, Your Honor.

2 THE COURT: This is 1/23/2016, right, Ana?

3 DEPUTY CLERK: Right, Your Honor.

4 THE COURT: Counsel, any objection?

5 MR. RIVERA-FERNANDEZ: No, Your Honor. We checked
6 the same and saw it.

7 THE COURT: All right. Thank you.

8 MR. RIVERA-FERNANDEZ: It was a Saturday.

9 MR. RIVERA-RODRIGUEZ: Your Honor, I think -- I
10 have an objection to this line of questioning and the form
11 that has been presented to the witness. Can we meet with
12 the Court and explain our objection?

13 THE COURT: Yes, you may.

14 MR. RIVERA-RODRIGUEZ: Thank you.

15 MS. GORBEA: May we approach, Your Honor?

16 THE COURT: Yes.

17 (WHEREUPON, the following proceedings were had at
18 sidebar outside the presence and hearing of the
19 jury:)

20 THE COURT: Good morning --

21 MR. RIVERA-RODRIGUEZ: Good morning, Your Honor.

22 THE COURT: -- to both of you.

23 MS. GORBEA: Thank you.

24 MR. RIVERA-RODRIGUEZ: Your Honor, I am concerned
25 that the line of questions that the prosecution has been

1 asking -- I am concerned about the form of the question by
2 reading the entire sentence that the defendant allegedly was
3 stating over the WhatsApp application, and then asking him
4 what she means by that.

5 THE COURT: No, she --

6 MR. RIVERA-RODRIGUEZ: What do you understand?

7 THE COURT: What do you understand? He has
8 never -- she never asked --

9 MR. RIVERA-RODRIGUEZ: I stand corrected.

10 THE COURT: Okay. What other question do you
11 want, other than just reading it?

12 MR. RIVERA-RODRIGUEZ: I think the one who should
13 be reading it is him.

14 THE COURT: No, because -- no, no, no. She picks
15 the questions she wants and you pick whatever you want on
16 cross-examination.

17 MR. RIVERA-RODRIGUEZ: But then she is reading
18 aloud and she is suggesting to him the answer.

19 THE COURT: No. She is reading verbatim. I think
20 the questions have been -- that's the only thing she can do
21 is ask him what he understands that means. That's easy.

22 MR. RIVERA-RODRIGUEZ: That calls for speculation.
23 That's my preoccupation.

24 THE COURT: No, I don't think so. I really don't.
25 She is reading it verbatim so -- what else can you ask?

1 Now, if she were asking him, what does she mean, then she is
2 asking for a hearsay answer, all right.

3 MS. GORBEA: Your Honor, another thing is that --

4 THE COURT: Then it still wouldn't be hearsay.

5 But anyway -- because she is a defendant. But anyway, I
6 think she is doing it the correct way, which is, what do you
7 understand that means to you, because it is a letter
8 addressed to him.

9 So if I say to you, Shut up, and they ask you,
10 What did you understand the judge said, you will say, I
11 better be quiet.

12 MR. RIVERA-RODRIGUEZ: Or I will be found in
13 contempt.

14 MS. GORBEA: Your Honor, very respectfully, I have
15 heard that the Court -- the judge has referred to the minor
16 as the victim. May we --

17 THE COURT: You don't want me to refer to him as
18 the victim? Isn't he the victim?

19 MS. GORBEA: Yes, but I don't know if that will --

20 MR. RIVERA-RODRIGUEZ: Bring the sympathy of the
21 jury out for him?

22 MS. GORBEA: That is one of my concerns.

23 THE COURT: How do you want me to call him?

24 MS. GORBEA: Minor.

25 THE COURT: The minor. I will call him the minor.

1 No problem.

2 MS. GORBEA: Thank you, Your Honor.

3 MR. RIVERA-FERNANDEZ: Your Honor, I think that
4 after hearing some of the declarations, and after the judge
5 admitted evidence under 413, we have to object. On the
6 balancing test of 403, I think that this line of questioning
7 creates undue tendency to suggest a decision to the jury on
8 an improper basis.

9 THE COURT: No, I think this is -- this is going
10 to the point of -- it is she who is the reader and it is
11 credibility as to what eventually happened. And by the way,
12 anyway, these standing by themselves are also examples of
13 what you should not be doing with a minor, standing by
14 themselves.

15 MR. RIVERA-FERNANDEZ: I think the fact finder
16 here is lured into declaring guilt on a ground different
17 from proof, specifically the offense charged, and this is a
18 highly charged public issue, and it appeals to the jury's
19 sympathy --

20 MS. GORBEA: The Government objects to that, Your
21 Honor.

22 THE COURT: No, I think that all these facts that
23 lead to -- that lead to the ultimate crime are necessary to
24 prove the case because if not, it's just a question of -- as
25 to what happened last night. We don't -- what happens if he

1 put a gun on her, you know? So there is -- there is -- I
2 think this is appropriate and I think that her skipping
3 others is all right.

4 And I would -- the only thing that I would
5 appreciate -- because if they want to read the whole thing,
6 they can read it -- is to go directly -- at some point you
7 are going to have to go directly to the point.

8 MS. GORBEA: Okay.

9 THE COURT: All right. Any objection that the
10 Court put in a calendar for 2015 and a calendar for 2016 on
11 the record?

12 MS. GORBEA: No objection.

13 MR. RIVERA-RODRIGUEZ: No objection.

14 (WHEREUPON, the following proceedings were had in
15 open court in the presence and hearing of the
16 jury:)

17 THE COURT: So the Court is going to put as an
18 illustration two calendars in the evidence as illustration
19 and, therefore, the Court takes judicial notice that these
20 calendars are reliable, and you can do so. And this helps
21 the Court for you not to look for the calendars in
22 your Sherlock Holmes investigation, all right.

23 So now we have two calendars, all right. So you
24 may use them later if you understand that you want to use
25 them. Thank you. We will wait until they are prepared.

1 You may proceed.

2 MS. GORBEA: Yes, Your Honor.

3 BY MS. GORBEA:

4 Q. Moving over, [REDACTED], to page 217.

5 THE COURT: You were at 265.

6 MS. GORBEA: Yes.

7 THE COURT: So you want to go back to what page?

8 MS. GORBEA: Now we are -- the Government is
9 moving to page 273.

10 THE COURT: Thank you.

11 BY MS. GORBEA:

12 Q. Fourth line, "Mi Princesa" on January 23, 2016, wrote:
13 "Kissing you and biting you."

14 Two lines down, "Mi Princesa" wrote: "I love you
15 like crazy. You enchant me like crazy. I want you a lot."

16 THE COURT: I think --

17 MR. RIVERA-FERNANDEZ: What page, Your Honor?

18 MS. GORBEA: 273, Your Honor.

19 THE COURT: I would rather you use the two Cs and
20 ask him what those two Cs are.

21 MS. GORBEA: I already asked him, Your Honor.

22 THE COURT: You already did? Well, I think you
23 ought to ask him again.

24 MS. GORBEA: Okay.

25 BY MS. GORBEA:

1 Q. On the line that "Mi Princesa" wrote: "I love you CC.
2 You enchant me CC. I want you a lot."

3 [REDACTED], based on your understanding, what does "CC"
4 mean --

5 THE COURT: To you.

6 BY MS. GORBEA:

7 Q. -- to you?

8 A. CC is an abbreviation. It means "like crazy."

9 Q. Moving forward on that same page, last line, "Mi
10 Princesa" wrote: "Yes, my love. You drive me crazy, CC."

11 Next page, 274, second line, "Mi Princesa": "And
12 I grab you by the shirt." Next line: "Press you up against
13 the wall." Next line, [REDACTED] wrote: "Today was the most
14 time when you told me touch you?"

15 Next line, "Mi Princesa": "You excite me like
16 crazy."

17 Going over to page --

18 MR. RIVERA-RODRIGUEZ: Objection, Your Honor.

19 What is the question here? She is just reading.

20 THE COURT: Well, that's what was said by -- was
21 sent by her.

22 MS. GORBEA: At this moment, Your Honor, there is
23 no particular questions for the witness. The Government is
24 just reading some of the lines that Mrs. Cotto wrote.

25 That's it.

1 MR. RIVERA-RODRIGUEZ: We object to that. The
2 witness has to be the one asking or -- asked questions or
3 testifying.

4 THE COURT: So the Court is going to request that
5 Counsel then choose which ones you want and which ones
6 specifically you want him to react thereto, and express what
7 he thought that meant to him, although, for the Court it
8 looks that you don't have to do that, but it's your case.
9 So that's why I originally requested for you to move forward
10 to the ultimate issues here, if there are ultimate issues.

11 MS. GORBEA: Okay, Your Honor. The Government is
12 going to move forward.

13 THE COURT: Thank you.

14 BY MS. GORBEA:

15 Q. Going over to page 295, third line. "Mi Princesa"
16 wrote: "What I wrote to you?"

17 And three lines down, [REDACTED] wrote: "I opened the
18 bag and I saw that."

19 [REDACTED], what did you see, based on what you wrote,
20 when you opened your bag?

21 A. The notes.

22 Q. What type of notes?

23 A. Loving messages.

24 Q. Let me show you, sir, what has been marked as
25 Government's Identification Number 5.

1 MS. GORBEA: May I approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. GORBEA:

4 Q. Please examine what is being shown to you carefully, and
5 tell the members of the jury if you recognize what is being
6 shown to you.

7 A. Yes, I recognize it.

8 Q. What is it?

9 A. The letters she put in my bag.

10 Q. Are those letters, [REDACTED]?

11 A. Yes.

12 MS. GORBEA: Your Honor, at this moment, the
13 Government moves Government's ID Number 5 to be admitted
14 into evidence.

15 THE COURT: Counsel, any objection thereto?

16 MR. RIVERA-RODRIGUEZ: No, Your Honor.

17 THE COURT: Okay. Admitted Exhibit Number 5.

18 Do you have all of them together, United States?
19 Because I would not want to go on a base-by-base basis. But
20 do you have all of that in one?

21 MS. GORBEA: Yes.

22 THE COURT: You have them all together in one.

23 BY MS. GORBEA:

24 Q. [REDACTED], when you said, "I opened the bag and I saw that,"
25 you are referring to the notes identified in Government

1 Exhibit 5?

2 A. Yes.

3 MS. GORBEA: Permission to publish, Your Honor.

4 THE COURT: You may. We are going to do this
5 apparently because if we put it on the elmo, it may create a
6 problem of communication, and the Court is trying to avoid a
7 problem that these machines go out on us. So, therefore, we
8 thought it more proper that we do it the long way because we
9 are now working with them in one courtroom and the Court in
10 another courtroom.

11 MS. GORBEA: Very well, Your Honor. So may I ask
12 the witness to read the notes?

13 THE COURT: I am interested in other matters. I
14 think the notes can be read by that -- by that. I just want
15 to make sure that each note is in her handwriting.

16 MS. GORBEA: Yes.

17 BY MS. GORBEA:

18 Q. [REDACTED] --

19 THE COURT: So start from left to right, the
20 upper, and then take the downward -- or tell him --
21 whichever form you want to use, as long as we get all of
22 them that -- the Court wants to make sure that he has
23 identified each one of them.

24 BY MS. GORBEA:

25 Q. Going over to the upper row, left side, what does the

1 first note say?

2 A. "I love you. You are my king, my everything."

3 Q. To the right side, what does the note say?

4 A. "Give me the kiss, Babe. I need you, my king."

5 Q. Moving over to the next note on the right side, upper
6 row.

7 A. "I love you, I love you, I love you. Give me kisses,
8 Babe."

9 Q. Next one.

10 A. "I love you, my love."

11 Q. Next one.

12 A. "You are my life. I miss you."

13 Q. Going over to the notes that are on the lower row,
14 starting on the one on the left side.

15 A. "I love you too much."

16 Q. Next one.

17 A. "Give me a kiss, my love."

18 Q. Next one.

19 A. "You are mine for my whole life."

20 Q. Next one.

21 A. "I love you too much. I miss you. I need to have you."

22 Q. Last one.

23 A. "Give it to me, my love. I cannot be without your
24 kisses."

25 Q. [REDACTED], do you recognize this handwriting?

1 A. Yes.

2 Q. Whose handwriting is this?

3 A. Of Ms. Yaira Cotto.

4 Q. And this is as to all the notes contained in
5 Government's Exhibit 5?

6 A. Can you repeat it?

7 Q. The answer that you just gave is as to each and every
8 note that is contained in Government's Exhibit 5?

9 A. Yes.

10 Q. When you said, "I opened the bag and I saw it," what is
11 it that you saw?

12 A. These little letters.

13 MS. GORBEA: Permission to proceed, Your Honor.

14 THE COURT: You may.

15 BY MS. GORBEA:

16 Q. Going over to page 332, last line. "Mi Princesa" wrote
17 on January 27, 2016: "I love you, my love. If you were
18 older, I would already be at your side."

19 [REDACTED], what did you understand when Mrs. Cotto
20 wrote this to you?

21 A. That if I would have been older, that I would have been
22 with her.

23 Q. Going to page 333, last line. "Mi Princesa,"
24 January 27, 2016: "To wake up at your side without hiding.
25 We can go out and have a family."

1 What did you understand, [REDACTED], this line to mean
2 to you?

3 A. That we could be together without any fear.

4 Q. Going over to page 346, last line. "Mi Princesa,"
5 January 28, 2016. Then we move forward to the next page,
6 347. It is written by Mrs. Cotto: "Let's go, my love. I
7 need to do it already."

8 [REDACTED], next line: "Well, let's, Babe."

9 "Mi Princesa," next line: "I prefer to go into
10 that motel than out front in the car because it's not safe."

11 Next line by "Mi Princesa": "It looks really
12 cheap but it's safer."

13 [REDACTED], next line: "Babe, right now I don't need
14 it to look pretty. I just need you."

15 [REDACTED], based on your understanding of what is
16 written in these lines, what does that mean to you?

17 A. To have sexual relations.

18 Q. Where?

19 A. In the motel.

20 Q. On page 349, second line, "Mi Princesa," January 28th:
21 "We thought that if we were going to protect ourselves, we
22 would have already in case something happens."

23 What did that mean, based on your understanding,
24 [REDACTED]?

25 A. I don't know.

1 Q. Going to page 351, third line from bottom up, "Mi
2 Princesa," January 28th: "Relax, Babe, because I will check
3 my cycle well so that nothing happens, but I know it's not
4 going to happen."

5 Next line by "Mi Princesa": "That's if we don't
6 protect ourselves..."

7 Next page, on 352, first line up, "Mi Princesa"
8 wrote on January 28, 2016: "That I get pregnant, my love.
9 Since we are not going to protect ourselves, I have to take
10 into account all the days that I am fertile, Babe, so that
11 that doesn't happen."

12 Three lines down, [REDACTED] wrote: "In a couple of
13 years, no counting."

14 Then two lines down, "Mi Princesa" wrote: "But
15 now, yes, Babe, to take care of ourselves."

16 [REDACTED], what did you understand all these lines
17 that were written meant?

18 A. That we have to protect ourselves so that she wouldn't
19 get pregnant.

20 Q. Going over to page 355, fourth line, "Mi Princesa"
21 wrote: "Now baby blondie and little princess will hold on
22 for years while mom and dad get organized."

23 Next line, [REDACTED] wrote: "Yes, my love."

24 Next line, "Mi Princesa": "We will practice."

25 And next line, [REDACTED] wrote: "Yes, my love."

1 Next line, "Mi Princesa" wrote: "We have several
2 years of practice."

3 [REDACTED], what was your understanding of this -- of
4 what was written here?

5 A. I don't know.

6 MS. GORBEA: Court's indulgence, Your Honor. We
7 are moving ahead in the pages.

8 BY MS. GORBEA:

9 Q. Moving over to page 404, second line. "Mi Princesa,"
10 January 29, 2016: "I have left a lot for you and risk
11 myself every day to losing even my job."

12 What did you understand by what was written here,
13 [REDACTED]?

14 A. I am not at that page.

15 Q. Page 404, second line: "I have left a lot for you. I
16 risk myself every day, even to losing my job."

17 What do you understand, [REDACTED], to be what is
18 written in this line?

19 A. That being with me she was at risk, and even though she
20 was at risk, she was still there.

21 Q. Moving over to page 405, fifth line. "Mi Princesa,"
22 January 21, 2016: "That's going to be the first problem
23 that causes our break-up because I am older than you and
24 there is going to be mistrust."

25 Next line, "Mi Princesa": "You go with Andrea and

1 everybody happy and forget about what has already happened.
2 That way no one suffers."

3 [REDACTED], what was your understanding of this to be?

4 A. That she didn't trust.

5 Q. Didn't trust what?

6 A. The relationship of being with her.

7 THE COURT: With who?

8 BY MS. GORBEA:

9 Q. With who?

10 A. Yaira Cotto.

11 THE COURT: But I meant, who is Andrea?

12 MS. GORBEA: That was going to be my next
13 question.

14 BY MS. GORBEA:

15 Q. Who is Andrea, [REDACTED]?

16 A. Andrea is a classmate.

17 Q. So she was with you in ninth grade?

18 A. A classmate.

19 Q. In ninth grade?

20 A. Yes.

21 Q. So based on your understanding, what was Mrs. Cotto
22 distrusting?

23 A. That I was with Andrea.

24 Q. On page 435, fifth line, "Mi Princesa," January 29,
25 2016: "Baby, because they will notice."

1 Next line from "Mi Princesa": "We have to hide,
2 Babe."

3 Next line from "Mi Princesa": "And you see that
4 eyes are on me."

5 Next line, [REDACTED]: "Who, Babe?"

6 Next page, on page 436, first line from "Mi
7 Princesa": "If I slip up, they will catch me."

8 Next line, "Mi Princesa": "Mulero and Crespo."

9 [REDACTED], what was your understanding as to what
10 Mrs. Cotto was writing to you here?

11 A. That if they would find out we were together, Ms. Mulero
12 and Crespo were going to catch her.

13 Q. Going to page 439, fifth line. "Mi Princesa,"
14 January 29, 2016: "The only one who can complain in your
15 mom."

16 Next line, [REDACTED]: "Okay, Babe. Relax. Let's
17 change the topic."

18 Next line, [REDACTED]: "She is not going to do it."

19 Next line, "Mi Princesa": "If your mom makes a
20 complaint, well, then the biggest scandal in the world
21 explodes."

22 [REDACTED], what was your understanding as to what
23 Mrs. Cotto was writing to you here?

24 A. That if my mom complained about me being with her
25 because I was a minor.

1 Q. Going over to page 551, from the third line from bottom
2 up -- the second line, bottom up. [REDACTED] on February 3,
3 2016 wrote --

4 THE COURT: What page?

5 MS. GORBEA: 551.

6 THE COURT: 551.

7 MS. GORBEA: Second line, bottom up.

8 THE COURT: Yes. Okay. I am there.

9 BY MS. GORBEA:

10 Q. [REDACTED] wrote on February 3rd: "You are pretty, my
11 love."

12 Next line, "Mi Princesa": "Pretty?"

13 On page 552, first line, [REDACTED] wrote:

14 "Beautiful, Babe."

15 "Mi Princesa," next line, wrote: "Pretty is what
16 I have under the dress."

17 [REDACTED], based on your understanding, what was it
18 that Mrs. Cotto wrote to you?

19 A. That her --

20 THE COURT: Ask him again the question.

21 MS. GORBEA: Yes.

22 BY MS. GORBEA:

23 Q. Based on your understanding, [REDACTED], when Mrs. Cotto
24 wrote, "Pretty is what I have under the dress," what was
25 your understanding of that line?

1 A. That her private parts were pretty.

2 Q. Moving over four lines down, [REDACTED] wrote: "That soon
3 you will be mine."

4 Next line, "Mi Princesa": "Completely, Babe."

5 [REDACTED]: "We are going to eat each other, Babe."

6 Moving to page 561, second line, "Mi Princesa,"
7 February 3, 2016: "Let yourself go."

8 [REDACTED], what, based on your understanding, this
9 meant to be, what Mrs. Cotto wrote, "let yourself go"? What
10 did that mean, based on your understanding?

11 A. Well, to move ahead, to let myself go in the sexual
12 relationship, because I was -- well, it was my first time
13 and I didn't have any experience.

14 Q. Two lines down, "Mi Princesa": "Baby, I am at
15 Walgreen's. You want me to buy so you take care of
16 yourself?"

17 [REDACTED], based on your understanding, what
18 Mrs. Cotto wrote to you meant?

19 A. That if I wanted her to buy condoms.

20 Q. Going over to page 575, last line. "Mi Princesa" on
21 February 3, 2016, then moving over to the next page, 576,
22 first line: "Tomorrow we are going to feel weird."

23 Next line, [REDACTED] wrote: "Why, Babe?"

24 Next line, "Mi Princesa": "Because I am your
25 teacher, Babe, and after feeling each other, we have to get

1 back to normal."

2 "Mi Princesa", next line: "Hide."

3 Three lines down, "Mi Princesa": "I hope this
4 doesn't change things."

5 Next line, [REDACTED]: "It won't change."

6 MS. GORBEA: Court's indulgence, Your Honor.
7 Trying to speed this up.

8 BY MS. GORBEA:

9 Q. Going over to page 583.

10 THE COURT: Hold it. So you have no question
11 there?

12 MS. GORBEA: Your Honor, excuse me, but I moved
13 the page --

14 THE COURT: You were at page 576 and 577. If you
15 have no question, then the Court strikes --

16 MS. GORBEA: No, no. The Government has
17 questions, Your Honor. I'm sorry.

18 THE COURT: Fine.

19 BY MS. GORBEA:

20 Q. [REDACTED], when Mrs. Cotto wrote to you what the Government
21 just read at page 576, starting on line -- on the first
22 line, moving to the second, third, fourth line, what was
23 your understanding of what Mrs. Cotto wrote to you there?

24 A. That after having sexual relations, that we had to be as
25 normal in front of people.

1 Q. Going over to page 583, last line. [REDACTED] wrote on
2 February 3, 2016, then the next page continues, 584: "I
3 want to do it again but I don't know if you want to."

4 Next line, "Mi Princesa": "Baby, of course."

5 Next line, [REDACTED]: "Next time I am going to be
6 fearless. I got over the fear."

7 Next line, [REDACTED]: "So when, Babe?"

8 Next line, "Mi Princesa": "Oh, Babe, relax.
9 That's normal. It was your first time, Babe."

10 Next line, [REDACTED]: "Next week, Babe?"

11 "Mi Princesa," next line: "Whenever you want,
12 Babe."

13 Could you please explain, based on your
14 understanding, [REDACTED], what these lines meant to you.

15 A. That if I wanted to have sexual relations again.

16 Q. Page 588, two lines from the bottom up.

17 "Mi Princesa": "Next time we will be careful, Babe. We can
18 be more relaxed."

19 Next page, 589, first line, "Mi Princesa": "Oh,
20 yes."

21 Next line, [REDACTED]: "I was relaxed, my love."

22 Next line, [REDACTED]: "I don't want to take care of
23 myself, Babe. I already did it without, and now I don't
24 want to."

25 Next line, "Mi Princesa": "On the way, all the

1 blondies and princesses who didn't make it to their
2 destination came out."

3 [REDACTED], based on your understanding, what did
4 Mrs. Cotto write -- let me rephrase the question.

5 From what Mrs. Cotto wrote to you there, what was
6 your understanding?

7 A. What line?

8 Q. Page 589, fourth line.

9 A. That on the way, all the things that I put in her came
10 out.

11 THE COURT: She asked for the fourth line. That's
12 the third line.

13 MS. GORBEA: Your Honor, on page 589, the first --
14 if we go to the upper part of the page, the first line says
15 (Reading in Spanish).

16 THE COURT: Okay. Go ahead.

17 MS. GORBEA: So it would be the fourth line.

18 THE COURT: Okay. Thank you.

19 BY MS. GORBEA:

20 Q. Going over to page 753, second line, "Mi Princesa,"
21 February 23, 2016: "You are good at sports, you are cute,
22 you have everything and to top it off, you get the woman you
23 want, and it's supposed to be impossible."

24 THE COURT: What page and line are you addressing?
25 Thank you.

1 MS. GORBEA: Page 753.

2 THE COURT: Thank you. All right. Thank you.

3 MS. GORBEA: Second line.

4 BY MS. GORBEA:

5 Q. [REDACTED], what was your understanding of what Mrs. Cotto
6 wrote to you here?

7 A. That I have everything at that time, like people said.

8 Q. Meaning what?

9 A. That I was good at sports, that I had the woman I
10 wanted, that I was cute; that at that time I didn't need
11 anything else.

12 Q. Which woman were you -- or are you talking about?

13 A. Yaira Cotto.

14 Q. Going to the last line of that same page, 753, "Mi
15 Princesa," February 23, 2016: "You can tell others and they
16 wouldn't believe you."

17 Next page, first line: "I am your teacher."

18 Going over to page 785, third line, "Mi Princesa"
19 wrote on February 24, 2016: "They will never separate us.
20 I couldn't live without you."

21 Two lines down: "One time these crazy girls
22 started drinking and they told Johnny, and said, Don't tell
23 me you too. And I told them, of course not. I knew."

24 [REDACTED], do you understand what Mrs. Cotto was
25 writing to you here?

1 A. No.

2 Q. Next page, 791, third line. "Mi Princesa," February 24,
3 2016: "Oh, Baby, now he knows that I am sleeping with you."

4 Four lines down, [REDACTED]: "But if he knows it's
5 the truth, I will say, yes, Johnny, I am sleeping with her.
6 I am going to again on Friday."

7 [REDACTED], who is Johnny?

8 A. The school's physical education teacher.

9 Q. So based on what I read to you now and based on your
10 understanding, what Mrs. Cotto and you were talking about
11 here?

12 A. That he already knew what was happening.

13 Q. Who?

14 A. Johnny.

15 Q. Going to page 805 -- excuse me, page 804, the previous
16 page. "Mi Princesa," and that is on page 803, last line, on
17 February 24th: "In the moment, a miracle might happen."

18 [REDACTED] wrote: "We might get a blondie early."

19 Two lines down, [REDACTED]: "Or the little princess."

20 "Mi Princesa" wrote, next line: "Way early."

21 Next line, "Mi Princesa": "And then, Babe."

22 Two lines down, "Mi Princesa": "Can you imagine?
23 I wouldn't know if I should tell you or not."

24 Next page, 805, fourth line. "Mi Princesa": "If
25 that happened."

1 ██████████, next line: "But if it happens, you would
2 have to tell me, but I don't think it will."

3 "Mi Princesa," next line: "It won't happen, Babe.
4 Relax."

5 Next line, "Mi Princesa": "But if it did happen,
6 not that it will, I wouldn't know what to do."

7 Next line, "Mi Princesa": "Have it and wait until
8 you are 18 and tell you."

9 Next page, 806, second line, "Mi Princesa": "Or
10 have it and not tell your mom."

11 Three lines down, "Mi Princesa": "It would be her
12 grandson."

13 ██████████, what is your understanding of what is
14 written, what Mrs. Cotto is writing to you?

15 A. That she could have a child.

16 Q. From whom?

17 A. Mine.

18 MS. GORBEA: Your Honor, we are going to move to
19 another line of questioning.

20 THE COURT: Okay. I will give the jury a break.
21 Any objection thereto from either counsel?

22 MR. RIVERA-FERNANDEZ: No, Your Honor.

23 THE COURT: Okay. So we will give you now a
24 ten-minute break, subject to the traditional instruction
25 that the Court has provided you in the past, and that is

1 that you must not discuss this case with anyone, including
2 yourselves, or remain within hearing of anyone discussing
3 it; no reading of newspaper articles, listening to any radio
4 broadcast nor watching any television program, not
5 performing any research on your own on the internet.

6 Don't seek books or newspapers of any type in
7 order to find matters that you may consider pertinent.
8 Obviously, this means that you should not get into Facebook
9 looking for this subject. And you are further ordered not
10 to seek advice or consult anyone, lawyers or students.

11 And, of course, you may consult each other at the
12 end of the case during deliberations as to any matter or
13 weighing any evidence. And stay far away from everybody you
14 know who is concerned with this case. And above all, you
15 are to keep an open mind, and you must not decide any issue
16 in this case until the case is submitted to you for your
17 deliberations after receiving the instructions of the Court.

18 We will go ten minutes at this time.

19 (WHEREUPON, the following proceedings were had in
20 open court outside the presence and hearing of the
21 jury:)

22 THE COURT: So Counsel, AUSA, where are you as of
23 this time?

24 MS. GORBEA: Your Honor, there are some additional
25 areas that the Government needs to ask the minor.

1 THE COURT: What I am trying to find out is, when
2 are you going to be finished?

3 MS. GORBEA: As to time, Your Honor?

4 THE COURT: Yes.

5 MS. GORBEA: Most likely between two additional
6 hours --

7 THE COURT: All right.

8 MS. GORBEA: Maybe a little more.

9 THE COURT: We are going to have to break for
10 lunch, all right.

11 MS. GORBEA: Yes.

12 THE COURT: Mr. Rivera, after examining all those
13 questions, what is your position as to time?

14 MR. RIVERA-RODRIGUEZ: I wasn't planning on
15 preparing for cross-examination this afternoon because the
16 Court stated that we were not going this afternoon. I would
17 still ask for more time to prepare.

18 MS. GORBEA: Your Honor, the witness --

19 THE COURT: The witness wants to finish today, and
20 he's made the effort to do that.

21 MS. GORBEA: Yes, the witness wants to finish
22 today. This is a very exhausting --

23 THE COURT: Area for him.

24 MS. GORBEA: -- process for him, and he cancelled
25 a baseball game in order to finish with his testimony today.

1 So most likely, the Government will finish before 2:00 p.m.,
2 and that will give plenty of time to defense counsel for
3 cross-examination.

4 MR. RIVERA-RODRIGUEZ: I can talk to the Court at
5 the break at 12:00 and let you know what my feeling is about
6 it.

7 THE COURT: The Court is interested in attempting
8 to finish this matter today because I understand that -- was
9 that piece of document that has been read, AUSA, was that
10 provided to counsel before?

11 MS. GORBEA: Yes, Your Honor. The Government
12 provided all the communications in discovery before trial.

13 THE COURT: When?

14 MS. GORBEA: It was provided, like -- I am going
15 to give you the exact date, Your Honor.

16 MR. RIVERA-RODRIGUEZ: It was given to me, Your
17 Honor, when I entered the case. She gave me --

18 THE COURT: Okay. But you entered three weeks
19 ago, right?

20 MS. GORBEA: It was provided to Mr. -- to prior
21 counsel way before, Your Honor. I would say, like, a year
22 ago. But as soon as Mr. Rivera entered the case, he was
23 also provided with a copy of all the communications.

24 THE COURT: And when was that, Mr. Rivera?

25 MR. RIVERA-RODRIGUEZ: That is correct, Your

1 Honor.

2 THE COURT: When was that, approximate date?

3 MR. RIVERA-RODRIGUEZ: Well, to us, it was given
4 about three to four weeks ago. But I know that there was a
5 package delivered by Mr. Aldridge which contained already
6 those WhatsApp communications.

7 THE COURT: Okay. But there was a time when both
8 of you were counsel, right?

9 MR. RIVERA-RODRIGUEZ: There was about a week, a
10 few days.

11 THE COURT: I thought it was longer than that.

12 MR. RIVERA-RODRIGUEZ: It was a few days, Your
13 Honor.

14 THE COURT: Okay. Well --

15 MR. RIVERA-RODRIGUEZ: That's why I needed some
16 more time to prepare for the cross-examination. And
17 yesterday the prosecution was -- the minor was going to go
18 to the baseball game, and all of a sudden they decided they
19 didn't want to do it. But, I mean, we can talk to the Court
20 at noontime.

21 THE COURT: Well, it's obvious that she is going
22 to ask questions about what happened on the date that is
23 stated in the indictment. That's no surprise.

24 MR. RIVERA-RODRIGUEZ: Yes, sir.

25 THE COURT: And you have had that book that she

1 has in your hands for around at least three weeks, right?

2 MR. RIVERA-RODRIGUEZ: Yes, sir.

3 THE COURT: Okay. All right. Thank you.

4 (WHEREUPON, a recess was had.)

5 THE COURT: Counsel, at or around 12:15, we are
6 going to stop for a lunch break, so please select the proper
7 moment. It can be 12:20. It can be 12:25, but on or around
8 that time, the Court would like to recess for lunch, and
9 then we can continue. All right.

10 MS. GORBEA: May it please the Court, Your Honor.

11 THE COURT: Well, did you hear what I said? You
12 didn't.

13 MS. GORBEA: No, I didn't hear.

14 THE COURT: Okay. So on or around 12:15, the
15 Court would like to stop. But it has to be also so that you
16 can terminate some area that you think is reasonable that we
17 stop. All right?

18 MS. GORBEA: Very well, Your Honor.

19 THE COURT: Okay. Thank you.

20 BY MS. GORBEA:

21 Q. [REDACTED], how many times did you have sexual relations with
22 Mrs. Cotto?

23 A. Two times.

24 Q. Where?

25 A. In a motel.

1 THE COURT: I didn't hear what he just said. Let
2 me check if the court reporter got it.

3 The record reflects here, he said two times.
4 Where? In a motel. All right. You may proceed.

5 BY MS. GORBEA:

6 Q. [REDACTED], do you remember in what motel was it?

7 A. Motel Oriente in San Lorenzo.

8 Q. How did you get into the motel?

9 A. I went walking to Casa de Abuela, which was a restaurant
10 that was close by.

11 Q. And we will go into that. But my question to you was,
12 what type of transportation did you use in order to get into
13 the motel?

14 A. The vehicle of Ms. Yaira Cotto.

15 Q. Let me show you, sir, what has been marked as
16 Government's ID Number 12. [REDACTED], do you recognize what is
17 being shown to you?

18 A. Yes.

19 Q. Why do you recognize it?

20 A. Because of the kiss here at the glass.

21 Q. What is it that is being shown to you?

22 A. Her car.

23 Q. Whose car?

24 A. Yaira Cotto.

25 Q. Are those depicted in photographs?

1 A. Yes.

2 MS. GORBEA: Your Honor, at this moment, the
3 Government moves Government's ID 12 into evidence.

4 MR. RIVERA-RODRIGUEZ: Objection.

5 THE COURT: Okay. What is the objection, sir?

6 MR. RIVERA-RODRIGUEZ: The prosecutor has not laid
7 the proper foundation for him to know that is Mrs. Cotto's
8 car.

9 THE COURT: Will you cover that then? I thought
10 you did, but I will -- I will authorize you to ask further
11 questions on that.

12 BY MS. GORBEA:

13 Q. [REDACTED], how did you know it was Mrs. Cotto's car?

14 A. Because of the kiss that's on the glass.

15 THE COURT: With that same question, the Court
16 will not authorize the photograph. We need more facts than
17 that. It's as simple --

18 BY MS. GORBEA:

19 Q. [REDACTED], aside from that kiss that you described in the
20 crystal of the car, how can you say that that was
21 Mrs. Cotto's car?

22 A. Because that's the one I got into to go to the motel.

23 Q. And was that the same vehicle used the two times that
24 you went to the motel?

25 MR. RIVERA-RODRIGUEZ: Objection; she is getting

1 into the contents of the exhibit --

2 THE COURT: No. Was that the vehicle you got into
3 the two times? Overruled.

4 BY THE WITNESS:

5 A. Yes.

6 BY MS. GORBEA:

7 Q. Have you ever seen Mrs. Cotto in another car --

8 MR. RIVERA-RODRIGUEZ: Leading, Your Honor.

9 BY MS. GORBEA:

10 Q. -- aside from the one that is shown in Government's ID
11 Number 12?

12 MR. RIVERA-RODRIGUEZ: Objection; leading.

13 THE COURT: No. No. The question is simple.
14 Have you seen any other car driven or associated with her?

15 THE WITNESS: No.

16 MS. GORBEA: Your Honor, at this moment, the
17 Government moves Government's ID 12 as evidence.

18 THE COURT: Counsel, any objection now?

19 MR. RIVERA-RODRIGUEZ: Still he hasn't described
20 the car, Your Honor, that he got into -- that Mrs. Yaira
21 supposedly had. He didn't describe it.

22 THE COURT: All right.

23 BY MS. GORBEA:

24 Q. [REDACTED], could you please describe Mrs. Cotto's car.

25 A. It's a navy blue or gray Kia or Rio. I don't remember.

1 Q. How would the photographs contained in Government's
2 ID 12 compare with the vehicle that was used by Mrs. Cotto
3 to take you to the motel?

4 A. I don't understand the question.

5 Q. How would you compare the exhibit Government's ID 12
6 that you have in front of you with the vehicle with whom you
7 went to the motel?

8 A. That was the vehicle in which I was taken to the motel.

9 Q. The two times that you mentioned?

10 A. Yes.

11 MS. GORBEA: Your Honor, at this moment, the
12 Government moves Government's ID 12 as an exhibit.

13 THE COURT: Now, Mr. Rivera?

14 MR. RIVERA-RODRIGUEZ: Same objection. He hasn't
15 properly described the car.

16 MS. GORBEA: Your Honor --

17 THE COURT: Overruled. The Court admits the
18 identification of the car. I caution the jury, however,
19 that the fact that it is admitted by the Court, you can
20 provide it the weight that you think you ought to provide it
21 when examining the entire case. The Court finds that there
22 are sufficient elements of reliability here as to the
23 description of the car. Go ahead.

24 MS. GORBEA: Permission to publish, Your Honor.

25 THE COURT: You may.

1 BY MS. GORBEA:

2 Q. [REDACTED], how many photographs are contained in
3 Government's Exhibit 12?

4 A. Nine pictures.

5 Q. If we go to the upper left side, is that the kiss that
6 you are referring to?

7 A. Yes.

8 Q. So that is like a sticker, right?

9 A. Yes.

10 Q. Showing the other photographs. This is the car that you
11 are referring to as Mrs. Cotto's car?

12 A. Yes.

13 Q. Thank you. Oh, and one question. What is the license
14 plate of the vehicle?

15 A. IEK 722.

16 Q. [REDACTED], you mentioned at the beginning of your
17 presentation that you communicated with Ms. Cotto via
18 WhatsApp chats, correct?

19 A. Yes.

20 Q. Let me show you what has been marked --

21 MS. GORBEA: Excuse me, Your Honor.

22 THE COURT: All right.

23 BY MS. GORBEA:

24 Q. -- what has been marked as Government's ID Number 8. Do
25 you recognize what is being shown -- examine what is being

1 shown to you first.

2 Okay. Do you recognize what is being shown to
3 you?

4 A. Yes.

5 Q. Why?

6 A. Because I was the one who wrote it.

7 Q. With whom were you writing or speaking to?

8 A. With Ms. Yaira Cotto.

9 Q. What method of communication were you using in order to
10 communicate with Ms. Cotto in what is shown in Government's
11 ID 8?

12 A. Text messages.

13 Q. How did you refer to Mrs. -- well --

14 MS. GORBEA: Your Honor, the Government moves
15 Government's ID 8 as an exhibit.

16 THE COURT: Any objection?

17 MR. RIVERA-RODRIGUEZ: Yes, Your Honor. There is
18 no indicia of reliability, when it was said, how it was
19 said, and when was the screen shots taken. He doesn't say
20 that he took the screen shots.

21 THE COURT: He doesn't have to take the -- he does
22 not have to be the author of the -- I accept that part. He
23 doesn't have to be the -- I accept the other part, but I
24 don't accept that he has to have been the person who took
25 the photograph.

1 MR. RIVERA-RODRIGUEZ: And the best evidence --

2 THE COURT: Your objection is granted unless you
3 further clarify what is that, where did he get it from.

4 BY MS. GORBEA:

5 Q. [REDACTED], where were these communications -- where did you
6 communicate when you wrote these messages; from where?

7 A. From my telephone.

8 Q. Let me show you --

9 MS. GORBEA: Your Honor, the agent is coming over
10 to the room where the witness is testifying.

11 BY MS. GORBEA:

12 Q. In the meantime, [REDACTED], how did you identify the person
13 to whom you were speaking to in those communications?

14 MR. RIVERA-FERNANDEZ: Objection, Your Honor; she
15 is talking about the content.

16 MS. GORBEA: No, I am just talking about if [REDACTED]
17 can identify -- how did [REDACTED] identify the person to whom he
18 was speaking to in the communications.

19 BY THE WITNESS:

20 A. Because I was the one who wrote it with her.

21 BY MS. GORBEA:

22 Q. And what was the name that was written in order to
23 identify the person that you were speaking to?

24 A. "My Princess."

25 Q. Who was "My Princess"?

1 A. Yaira Cotto.

2 Q. Let me show you Government's Exhibit Number 6. What is
3 that?

4 A. My telephone.

5 Q. Was that the same item used to communicate in what is
6 contained in Government's ID Number 8?

7 A. Yes.

8 Q. Can you see in those communications the date that those
9 communications were written; the dates?

10 A. February 19.

11 MS. GORBEA: Your Honor, the Government moves
12 Government's ID Number 8 as evidence -- as an exhibit.

13 THE COURT: Any objection?

14 MR. RIVERA-RODRIGUEZ: Yes, Your Honor. The best
15 evidence rule says that it should be shown on the phone, not
16 in this way.

17 THE COURT: Overruled. Admitted.

18 BY MS. GORBEA:

19 Q. [REDACTED], just briefly, let me go --

20 THE COURT: What was that exhibit number?

21 DEPUTY CLERK: Eight, Your Honor.

22 THE COURT: Eight. Thank you.

23 MS. GORBEA: Number 8.

24 THE COURT: We are going to hold up because we are
25 going to put the copies -- not yet.

1 Counsel -- not yet. You haven't requested the
2 Court anything.

3 MS. GORBEA: No, the Government is going to
4 request permission to publish.

5 THE COURT: All right. Thank you.

6 MS. GORBEA: Permission to publish.

7 THE COURT: Yes. Fine. I think we have provided
8 them a copy, the jury.

9 MS. GORBEA: The jury has a copy of the exhibit?

10 THE COURT: Yes.

11 MS. GORBEA: Oh, okay.

12 BY MS. GORBEA:

13 Q. [REDACTED], on those screen shots, who is the person writing
14 on the left side? There are, like, two different columns,
15 right?

16 A. Yaira Cotto.

17 Q. And on the right side?

18 A. Me.

19 THE COURT: I don't understand. Maybe, perhaps,
20 because I don't use this form of communication, but I don't
21 understand.

22 BY MS. GORBEA:

23 Q. Okay. Let me ask again.

24 If we go to the screen shot, [REDACTED], you see that
25 there are, like, two different windows; one to the left side

1 and one to the right side. On the left side, what is the
2 color of the window?

3 A. Gray.

4 Q. And on the right side?

5 A. Yellow.

6 Q. So who is the person writing on the grayish window?

7 A. Yaira Cotto.

8 Q. And on the right side, on the yellow window?

9 A. I am.

10 Q. Thank you.

11 THE COURT: Go ahead.

12 BY MS. GORBEA:

13 Q. You mentioned that you had sexual relations with
14 Mrs. Cotto twice, correct?

15 A. Yes.

16 Q. Do you remember at some point in time being interviewed
17 by the Department of Education investigator?

18 A. I don't remember.

19 Q. If there is a document that I can provide to you to
20 refresh your memory, would you be able to recollect what I
21 am asking you?

22 A. Yes.

23 MS. GORBEA: Your Honor, may I approach the
24 witness?

25 THE COURT: Any objection?

1 MR. RIVERA-RODRIGUEZ: No, Your Honor.

2 THE COURT: Excuse me?

3 MR. RIVERA-RODRIGUEZ: No, Your Honor.

4 THE COURT: Okay. All right. You may.

5 BY MS. GORBEA:

6 Q. Please read what is being shown to you.

7 THE COURT: To yourself.

8 BY MS. GORBEA:

9 Q. To yourself, not out loud. And please tell the Court if
10 that recollects your memory.

11 MS. GORBEA: May I approach the witness?

12 THE COURT: You may.

13 BY MS. GORBEA:

14 Q. [REDACTED], does that refresh your memory as to the question
15 that I previously posed to you if anyone from the Department
16 of Education, specifically an investigator, interviewed you?

17 A. Yes.

18 Q. Isn't it true that you informed the Department of
19 Education investigator that it was --

20 MR. RIVERA-RODRIGUEZ: Objection; leading.

21 THE COURT: The pending question was the date --
22 if he could tell the date that he had the first experience.
23 That's the pending question which he didn't then know.

24 MS. GORBEA: The question that the Government
25 intends to pose the witness is as to the times, Your Honor;

1 the times that the witness had sexual encounters with
2 Mrs. Cotto.

3 THE COURT: Fine. So the Court accepts that.

4 So has your memory been refreshed as to the times?
5 The times. How many events did he have?

6 THE WITNESS: Twice.

7 BY MS. GORBEA:

8 Q. Isn't it true that you informed the investigator that it
9 only happened once?

10 A. Yes.

11 Q. So why you didn't tell the truth to the investigator
12 from the Department of Education?

13 A. Because I would have gotten into problems with my family
14 if I had said yes, I had done it.

15 Q. That you have done it before?

16 A. Yes.

17 Q. Did you always communicate with Mrs. Cotto over your
18 phone, or did you use any other electronic equipment?

19 A. Yes.

20 Q. Yes, as to what?

21 A. An iPod.

22 Q. Whose iPod?

23 A. Hers.

24 Q. Whose?

25 A. Yaira Cotto.

1 Q. And how did you use Mrs. Cotto's -- no. The question
2 is, why did you use Mrs. Cotto's iPod?

3 A. Because my telephone had been taken away.

4 Q. And what did Mrs. Cotto do when your cellular phone was
5 taken from you?

6 A. She lent me an iPod.

7 Q. Let me show you what has been marked as Government's
8 Exhibit Number 7. Do you recognize what is being shown to
9 you?

10 A. Yes.

11 Q. What is it?

12 A. The iPod she lent me.

13 Q. Why do you recognize it?

14 A. Because of the color.

15 Q. How would you compare that iPod, the one that you have
16 in your hands today, with the iPod that you used to
17 communicate with Mrs. Cotto?

18 A. Because it was the one that I used to communicate with
19 her when my phone was taken away.

20 MS. GORBEA: Approaching the witness, Your Honor.

21 BY MS. GORBEA:

22 Q. [REDACTED], let me draw your attention to March 1, 2016.
23 Were you at school on that date?

24 A. Yes.

25 MS. GORBEA: Your Honor, I believe the Court

1 introduced the calendar.

2 THE COURT: Yes, the calendar here. I haven't
3 introduced them. They are illustrative, and the Court takes
4 judicial notice that this calendar is accurate. So I want
5 counsel -- before you start using it, I want counsel who is
6 present with you to verify if those are acceptable to
7 counsel.

8 MR. RIVERA-RODRIGUEZ: Yes, Your Honor, it is
9 acceptable.

10 THE COURT: Very well. Okay. So therefore, you
11 can use these. I am going to mark them. The Court's
12 Illustration 1 is the 2015 calendar, and the 2016 is
13 Illustration Number 2. And we are going to give a -- we are
14 going to use them. So you may proceed.

15 MS. GORBEA: Thank you, Your Honor.

16 BY MS. GORBEA:

17 Q. Okay. [REDACTED], what happened at approximately noontime on
18 that date? Please go step by step as to what happened at
19 approximately noontime.

20 A. Well, I talked about that I was going to go to the
21 barbershop and then I was going to go to my grandmother's
22 house.

23 Q. With whom did you speak with to say that you were going
24 to the barbershop and to your grandmother's house?

25 A. With some class -- no, I'm sorry, with Ms. Mojica.

1 Q. With Ms. Mojica. What did you say to Ms. Mojica?

2 A. That I was going to go to the barbershop.

3 Q. And what did Ms. Mojica do, based on your knowledge?

4 A. She signed for me to be able to go out.

5 Q. So Ms. Mojica accepted your -- what you told her --

6 MR. RIVERA-RODRIGUEZ: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. GORBEA: I am going to rephrase the question.

9 BY MS. GORBEA:

10 Q. How did Ms. Mojica react, or what did you observe

11 Ms. Mojica to do when you asked her that you wanted to leave
12 early?

13 MR. RIVERA-FERNANDEZ: Objection, Your Honor;
14 asked and answered. He already testified that she signed
15 the paper.

16 THE COURT: Yes, so that's it. She signed the
17 paper. You can't go anywhere else with that unless you
18 address the hearsay line.

19 BY MS. GORBEA:

20 Q. What paper, [REDACTED], did Ms. Mojica sign?

21 A. The one in the school's office.

22 Q. For what purpose?

23 A. So that I would go out.

24 Q. Let me show you what has been marked as Government's
25 Exhibit Number 4.

1 MS. GORBEA: Permission to publish.

2 THE COURT: It's already an exhibit, right?

3 MS. GORBEA: It's already an exhibit.

4 THE COURT: Very well.

5 MS. GORBEA: May the exhibit be published?

6 THE COURT: Yes. The assistant of the District
7 Attorney is about to turn it on in court here.

8 BY MS. GORBEA:

9 Q. Okay. Showing you, [REDACTED], what has been marked as
10 Government's Exhibit Number 4. You recognize what that
11 document purports to be?

12 A. Yes.

13 Q. What is that document?

14 A. The document that was signed for me to go out.

15 Q. What is the title of that document?

16 A. The exit registry.

17 Q. Does -- can you say the whole title?

18 THE COURT: We are going to have to blow it up.

19 Ana.

20 DEPUTY CLERK: Your Honor, no.

21 THE COURT: Okay. There it is.

22 BY MS. GORBEA:

23 Q. Could you please tell the full title of the document.

24 A. Early Student Exit Registry.

25 Q. Okay. Now I want to -- for you to see the document, the

1 complete document, okay.

2 [REDACTED], do you see your name in this document?

3 A. Yes.

4 Q. Under what column is your name?

5 A. Student column.

6 Q. Can you please tell the jury on what line -- count the
7 lines, and tell the jury where your name is.

8 THE COURT: You don't have a copy of that
9 document, Counsel, present?

10 MS. GORBEA: No, we don't have a copy of that
11 document with us here.

12 BY THE WITNESS:

13 A. 11, top to bottom.

14 BY MS. GORBEA:

15 Q. Do you recognize the name that appears right next to
16 your name on the left side?

17 A. Yes.

18 Q. What's that name?

19 A. Lydia Mojica.

20 Q. And who is Lydia Mojica?

21 A. The person who authorized for me to exit -- to leave.

22 Q. Who wrote your name in that document?

23 A. I did.

24 Q. Going to the left side, when was it that you signed that
25 document?

1 A. 12:45.

2 Q. On what date?

3 A. March 1st.

4 Q. Of what year?

5 A. 2016.

6 Q. Moving over to the right side.

7 MS. GORBEA: Can I see the whole document?

8 THE COURT: Yes.

9 MS. GORBEA: Thank you.

10 BY MS. GORBEA:

11 Q. On the column that says "Grade" next to your signature,
12 what's the grade?

13 A. 9th.

14 Q. And to the right side, the column that says the Purpose,
15 what does it say?

16 A. "Sick."

17 Q. Did you write that?

18 A. No.

19 Q. Do you know who wrote it?

20 A. I don't remember.

21 Q. Were you sick on that date?

22 A. No.

23 Q. Were you going to the barbershop or to your
24 grandmother's home?

25 A. No.

1 Q. So you lied to Ms. Mojica as to where you were going,
2 right?

3 A. Yes.

4 Q. Where were you going?

5 A. To the motel.

6 Q. Why did you tell Ms. Mojica that you were going to the
7 barbershop or -- and to your grandmother's house?

8 A. Because I was a minor and it wasn't really appropriate
9 for me to tell her that I was going to go to the motel with
10 the teacher.

11 MS. GORBEA: May the exhibit be taken out of the
12 screen, Your Honor?

13 THE COURT: Yes. It's out.

14 MS. GORBEA: Thank you.

15 BY MS. GORBEA:

16 Q. So where did you go, [REDACTED], when you left the school on
17 that date?

18 A. I walked toward where she was going to pick me up, to
19 the restaurant Casa de Abuela.

20 THE COURT: Who is she?

21 THE WITNESS: Yaira Cotto.

22 BY MS. GORBEA:

23 Q. And how did you know that Mrs. Cotto was going to pick
24 you up at Casa de Abuela restaurant?

25 A. Because we had planned it.

1 Q. Showing you what has been marked --

2 MS. GORBEA: Court's indulgence, Your Honor.

3 Your Honor, at this moment the Government is going
4 to show [REDACTED] what has been marked as Government's ID 11,
5 but I just showed these photographs to Mr. Rivera, and he
6 has no objection that they be marked as an exhibit.

7 THE COURT: Okay. Is that correct?

8 MR. RIVERA-RODRIGUEZ: That is correct, Your
9 Honor.

10 THE COURT: Yes, sir. All right.

11 MS. GORBEA: So it will be marked as Exhibit 11.

12 THE COURT: Exhibit 11.

13 MS. GORBEA: Then it's from 11A to 11K.

14 THE COURT: Okay. So we have to know which one
15 is -- for the reader of the record, we need to put a number
16 on each one of those images. So tell me -- tell the court
17 reporter so that we can mark them.

18 MS. GORBEA: Yes, Your Honor. Exhibit 11 --

19 THE COURT: It's already marked? So they are
20 already marked. Thank you. Okay. So we are going to
21 proceed to provide a copy of those exhibits to each of the
22 jurors.

23 MS. GORBEA: Permission to publish, Your Honor.

24 THE COURT: Yes. Okay. You may. That's what we
25 are doing now. So wait a second until they all have a copy.

1 MS. GORBEA: Thank you.

2 THE COURT: All right. We are ready.

3 MS. GORBEA: Thank you.

4 THE COURT: Go photograph by photograph with the
5 witness, the minor.

6 MS. GORBEA: Yes.

7 BY MS. GORBEA:

8 Q. [REDACTED], let me show you what has been marked as
9 Government's Exhibit 11. Do you recognize what that
10 photograph -- the photograph that is being shown to you?

11 A. Yes.

12 Q. What is depicted in that photograph?

13 A. The front part of the school.

14 Q. Showing you what has been marked as 11A. What is
15 portrayed in that photograph?

16 A. The part over there of the school, like, toward the
17 outside.

18 Q. Do you recognize the road that is on the outside, like
19 you say?

20 A. Yes.

21 Q. Do you know what is that road or the name or the road
22 number?

23 A. No.

24 Q. Showing you what has been marked as Government's
25 Exhibit 11B. Do you recognize the photograph?

1 A. Yes.

2 Q. What does it portray?

3 A. That's the road to go to Casa de Abuela.

4 Q. 11C, what does that photograph portray, if you know?

5 A. Further on to go to Casa de Abuela.

6 Q. Showing you what has been marked as 11D. What does this
7 photograph portray?

8 A. Almost arriving to Casa de Abuela.

9 Q. Showing you what has been marked as 11E. What does that
10 photograph portray?

11 A. Restaurant Casa de Abuela.

12 Q. How far away is the restaurant Casa de Abuela from the
13 school?

14 A. Five to ten minutes walking.

15 Q. Showing you what has been marked as Government's
16 Exhibit 11F. What is that?

17 A. Restaurant Casa de Abuela.

18 Q. So when you arrived to Restaurant Casa de Abuela, what
19 happened?

20 A. I waited for her to come down, for Ms. Cotto to come
21 pick me up there.

22 Q. How long did you have to wait, if you remember?

23 A. Not long.

24 Q. And --

25 THE COURT: So can he define what "no mucho" is?

1 MS. GORBEA: That's what I was going to ask.

2 BY MS. GORBEA:

3 Q. How would you define "not much" in terms of time?

4 A. No more than five minutes.

5 Q. And in which -- how did Mrs. Cotto pick you up?

6 A. In the Kia Rio.

7 Q. Where did you sit when you entered Mrs. Cotto's car?

8 Where?

9 A. In the passenger.

10 Q. On the front side or on the back?

11 A. In the front.

12 Q. Showing you what has been marked as Government's

13 Exhibit 11G. What does that photograph portray?

14 A. It's the road to go to the motel.

15 Q. Is the road to go to the motel the same road as to go to

16 Casa de Abuela?

17 A. Yes.

18 Q. So is that the same -- just to have everything clear,

19 the same road from school is the same road that takes you to

20 Casa de Abuela?

21 A. Yes.

22 Q. And the same road from Casa de Abuela to the motel?

23 A. Yes.

24 Q. How far is it by car from Casa de Abuela restaurant to

25 the motel?

1 A. Ten minutes.

2 Q. Let me show you, [REDACTED], what has been marked as
3 Government's Exhibit 11G -- is it G?

4 THE COURT: No, it's I.

5 MS. GORBEA: H. Okay. 11H. Excuse me.

6 THE COURT: 11H? Okay.

7 BY MS. GORBEA:

8 Q. Do you recognize what is portrayed in that photograph?

9 A. Yes.

10 Q. What is it?

11 A. The road that I got to after leaving the motel.

12 Q. Showing you what has been marked as Government's
13 Exhibit 11I. Could you please tell the members of the jury
14 what is it that is being shown to you?

15 A. The motel I went to with Ms. Cotto.

16 Q. Does that exhibit contain one photograph or more than
17 one?

18 A. Two photos.

19 Q. So could you explain the photo that is on the top? What
20 does it portray?

21 A. The location.

22 Q. What about the photo that is on the bottom side?

23 A. The title -- the name of the motel we went to.

24 Q. [REDACTED], please explain to the members of the jury and the
25 Court what happened when you entered the Motel Oriente.

1 A. We went in, and we went into one of the rooms of the
2 motel, and Ms. Cotto got out of the car to close the door.
3 We went up to the second floor. She went in. She paid the
4 motel. It was approximately some \$30. And then we had
5 sexual relations.

6 Q. Okay. Let's go step by step, [REDACTED]. You mentioned that
7 you entered the entrance of the room or the cabin, you said?

8 A. Yes.

9 Q. How would you describe the cabin of the motel that
10 you -- of the area that you went to in the motel?

11 A. Inside a carport.

12 Q. And what else, aside from the carport?

13 A. The room we went into on the second floor.

14 Q. Let me show you what has been marked as Government's
15 Exhibit 11J.

16 THE COURT: Excuse me. Before that, who opened
17 the carport?

18 THE WITNESS: It was already open.

19 THE COURT: Already open. Do you know why it was
20 already open?

21 THE WITNESS: No.

22 THE COURT: All right. Proceed.

23 BY MS. GORBEA:

24 Q. Showing you what has been marked as Government's
25 Exhibit 11J. What does that photograph portray?

1 A. The place we went into.

2 Q. The place where you entered where?

3 A. In the motel.

4 Q. Showing you what has been marked as Government's
5 Exhibit 11K. What does this photograph portray?

6 A. The stairs of the motel and the price of the motel.

7 Q. Where is the price seen or located?

8 A. On the wall.

9 Q. And what is the price that is shown on the wall?

10 A. \$33.

11 Q. So you went into the cabin with Ms. Cotto, and what
12 happened?

13 A. She paid through a small window.

14 Q. A small window? What small window? Could you describe
15 it?

16 A. It's the window in the motel that is there to pay.

17 Q. And what happened after Mrs. Cotto paid?

18 A. We had sexual relations.

19 Q. Did anything happen while or before you had sexual
20 relations?

21 MR. RIVERA-RODRIGUEZ: Leading, Your Honor.
22 Leading.

23 MS. GORBEA: I just said what happened.

24 THE COURT: Overruled.

25 BY THE WITNESS:

1 A. No.

2 BY MS. GORBEA:

3 Q. How long did you stay with Ms. Cotto at the motel, if
4 you remember?

5 A. Like three hours.

6 Q. And what happened afterwards?

7 A. Well, she took me then to the road that I mentioned
8 before that I got to when leaving the motel.

9 Q. What road is that?

10 A. I don't know the name.

11 Q. Could you describe the road? Is it the same road that
12 took you to Casa de Abuela Restaurant? What road? You can
13 describe it.

14 A. A little bit further down from Casa de Abuela.

15 Q. And where did Mrs. Cotto drop you off after leaving the
16 motel?

17 A. On the road that I mentioned -- that I previously
18 mentioned.

19 Q. Next to -- can you describe next to where?

20 A. Next to -- a little bit further down from Casa de
21 Abuela.

22 Q. And what did you do when Mrs. Cotto dropped you off near
23 Casa de Abuela?

24 A. I walked toward the school area.

25 Q. And what did you do?

1 A. I had to go into the office.

2 Q. Why?

3 A. Because I was being waited for there.

4 Q. Who were waiting for you at the office -- at the school
5 office?

6 A. The school principal and my mother.

7 Q. And why they were waiting for you, if you know?

8 A. Because they had looked for me everywhere, and I
9 couldn't be found.

10 Q. So what happened, [REDACTED], when you entered into the
11 principal's office?

12 A. They met with me and asked me where was I.

13 Q. And what did you say to them as to where were you?

14 A. In the court.

15 Q. So you didn't tell them the truth?

16 A. I didn't.

17 Q. You didn't tell the truth to the principal nor to your
18 mom, correct?

19 A. Correct.

20 Q. Why you didn't tell the truth to the principal or to
21 your mom?

22 A. Well, because it wouldn't be good for me to say the
23 truth.

24 MR. RIVERA-RODRIGUEZ: Objection to the
25 translation. "It was not convenient to me to tell the

1 truth."

2 THE INTERPRETER: The interpreter accepts the
3 correction.

4 MR. RIVERA-RODRIGUEZ: "Convenient for me to tell
5 the truth."

6 THE COURT: The Court accepts the correction.

7 MS. GORBEA: Your Honor, the Government is almost
8 over. I just would like a brief minute just to talk with
9 the case agent and my assistant. It will be very brief.

10 THE COURT: Yes. So what are you suggesting?

11 MS. GORBEA: Whatever the Court deems appropriate.
12 They can come down or I can go up.

13 THE COURT: We will wait.

14 MR. RIVERA-FERNANDEZ: Your Honor, it's almost
15 time for lunch also.

16 THE COURT: Yes, but she says she only needs a few
17 minutes to terminate. All right. Okay. So we will wait.
18 We will give the jury about a five-minute break, perhaps.
19 Thank you.

20 (WHEREUPON, a recess was had.)

21 THE COURT: All right. Counsel.

22 MS. GORBEA: Yes, Your Honor. Thank you.

23 BY MS. GORBEA:

24 Q. [REDACTED], you said that you lied to the principal and your
25 mother, and you even lied to the investigator of the

1 Department of Education because it was inconvenient for you,
2 right?

3 A. Yes.

4 Q. For all of these people to know the truth?

5 A. Yes.

6 Q. Now, based on your understanding, would it also have
7 been inconvenient to Mrs. Cotto?

8 MR. RIVERA-RODRIGUEZ: Objection; leading.

9 MS. GORBEA: Based on the witness' understanding.

10 MR. RIVERA-RODRIGUEZ: Leading, Your Honor.

11 THE COURT: Overruled.

12 BY MS. GORBEA:

13 Q. So based on your understanding, [REDACTED], wouldn't it also
14 have been inconvenient for Mrs. Cotto?

15 A. Correct.

16 MS. GORBEA: No further questions, Your Honor.

17 MR. RIVERA-RODRIGUEZ: Your Honor, may we
18 approach --

19 THE COURT: You may.

20 MR. RIVERA-RODRIGUEZ: -- and ask a request of the
21 Court?

22 THE COURT: Okay. So we can discuss that, but I
23 am going to leave the jury to have their lunch break at this
24 time. Any objection thereto?

25 MR. RIVERA-RODRIGUEZ: No, Your Honor. That's

1 exactly what I wanted to talk to the Court about.

2 THE COURT: Okay. Fine. So I will wait for you,
3 but they can leave to have lunch.

4 You can take them out through the elevator.

5 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

6 (WHEREUPON, the following proceedings were had in
7 open court outside the presence and hearing of the
8 jury:)

9 MS. GORBEA: Permission to approach.

10 THE COURT: No, I don't need any approaching
11 because the jury is out. I sent the jury for lunch.

12 The witness can take the lunch break at this time.

13 MR. RIVERA-RODRIGUEZ: Your Honor, right now the
14 Defense is just about to cross-examine the most important
15 factual witness in the case, actually; the witness that
16 poses the major risk for the defendant and is the only
17 witness who states that he was transported to a motel for
18 the object of having sex, according to his testimony.

19 The Government has had two years to prepare for
20 this case. I have had only one month, Your Honor.

21 THE COURT: But you got into this --

22 MR. RIVERA-RODRIGUEZ: That's fine.

23 THE COURT: You got into this mess.

24 MR. RIVERA-RODRIGUEZ: This is what I am getting
25 to. Yesterday we said that we were going to give the

1 afternoon off because the minor had a baseball game. The
2 Court acquiesced very gently. I did not object either nor
3 the defendant, so we tried to accommodate the minor's
4 convenience at that point. I had planned for this afternoon
5 to prepare for that cross-examination, and I need to secure
6 some very important evidence.

7 THE COURT: You need to secure evidence to
8 cross-examine? Cross-examination has to be based on what
9 you have.

10 MR. RIVERA-RODRIGUEZ: No, Your Honor. We can
11 bring in evidence too to confront him -- to impeach him.
12 With all due respect, that's under the rules of impeachment.

13 MS. GORBEA: Evidence that the Government has not
14 received.

15 MR. RIVERA-RODRIGUEZ: If it's impeachment, it
16 doesn't have to be provided unless he denies it. I ask him,
17 he denies it, then I can bring the evidence and give copies
18 of any documents or objects to the prosecutor.

19 In any event, now the Government is in a hurry.
20 She wants to get rid of this witness today, but I beg the
21 Court to allow us this afternoon off so we can prepare for
22 this important witness tomorrow. We can do it in a few
23 hours, maybe one or two hours, and it's going to be quick.

24 THE COURT: So why don't you do it now, and I will
25 start the cross-examination within an hour and a half.

1 Sir, you requested first on the 22nd of March to
2 be counsel in this case, and the Court agreed, and you
3 originally had two counts. Then we held an emergency
4 hearing. What was it, an emergency hearing?

5 DEPUTY CLERK: Pretrial conference was held on
6 March 27th regarding new counsel joining in the case.

7 THE COURT: Then the next event was what?

8 DEPUTY CLERK: The jury selection on April 2nd.

9 THE COURT: So we selected the jury on April 2nd.
10 In the meantime -- he was the only one who participated in
11 the jury selection, right?

12 MR. RIVERA-RODRIGUEZ: That's right, Your Honor.

13 THE COURT: Because in the meantime, we held the
14 hearing because the defendant wanted only you in the case,
15 right?

16 MR. RIVERA-RODRIGUEZ: Yes, Your Honor. But all I
17 am asking is for this afternoon off. I think it's not
18 unreasonable under the circumstances.

19 THE COURT: I will allow you, but anyway, he has
20 testified as to a document that you already had since
21 March 27th, and he testified, as expected, what happened on
22 this exhibit, and he testified as to what everybody here
23 thought he would testify, which is the incident at the Motel
24 Oriente on the 1st of March, which is in the indictment.

25 MS. GORBEA: And Your Honor --

1 THE COURT: Why are you not prepared?

2 MR. RIVERA-RODRIGUEZ: It sounds simple. It
3 sounds simple, but we worked on the basis of an assumption
4 that -- the Government requested that the minor be allowed
5 to play baseball this afternoon, and we worked around that
6 assumption.

7 THE COURT: But you had the exhibit and you knew
8 what he was going to testify about.

9 MS. GORBEA: Your Honor, moreover, the Court
10 granted Mr. Rivera additional time from the original trial
11 date that was going to take place on April the 2nd to start
12 two weeks after that in order for Mr. Rivera to prepare.

13 MR. RIVERA-RODRIGUEZ: And I requested 30 days,
14 not two weeks. But I understood that the Court was, under
15 the circumstances, being gentle with us in allowing two
16 weeks. But I am asking the Court now for half a day.

17 THE COURT: I will be gentle again and I will
18 allow you two hours to prepare. Two hours to prepare.

19 MR. RIVERA-RODRIGUEZ: It's 12:30.

20 THE COURT: It is now -- as a matter of fact, we
21 will start at 3:00.

22 MR. RIVERA-RODRIGUEZ: Okay, Your Honor.

23 THE COURT: All right. At 3:00.

24 MR. RIVERA-RODRIGUEZ: Very well.

25 THE COURT: All right. But I think that we have

1 to think also as to the minor in this case. All right.

2 MR. RIVERA-RODRIGUEZ: We were thinking about the
3 minor yesterday when you allowed him to go to the baseball
4 game.

5 THE COURT: We were, but he made, I think, the
6 correct decision, and that was that he wanted to terminate
7 this.

8 MR. RIVERA-RODRIGUEZ: But yesterday he wanted to
9 play baseball, and we allowed him to also --

10 MS. GORBEA: And Your Honor, today he had a game,
11 and he postponed that game in order to comply with the Court
12 and be here all day.

13 THE COURT: I think it's best for everybody. This
14 jury has already had enough breaks in time waiting for us,
15 all right; waiting for us on several occasions. And I think
16 it's time for this case to move further, all right. And
17 here is what I am going to do: If you show sufficient cause
18 to bring him back, I may bring him back. All right.

19 MR. RIVERA-RODRIGUEZ: Very well. Thank you.

20 THE COURT: There you go.

21 MS. GORBEA: Your Honor, for the record, the
22 Government has been --

23 THE COURT: I, of course, need to know why are you
24 bringing him back, all right.

25 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

1 MS. GORBEA: The Government has been introducing
2 some exhibits into evidence, however, the translations
3 are -- for the documents that are written in Spanish are
4 attached in the back. And just for the record, the
5 Government -- in Exhibit 2, which is the time card from
6 Mrs. Cotto, the translation is in Exhibit -- well, it's not
7 an exhibit, but we want to introduce them as an exhibit
8 because it's a translation -- 2A.

9 THE COURT: Show it to him to see if there is any
10 problem with any translation.

11 MS. GORBEA: Then we will have to make all the
12 different packages -- oh, we gave it to the Court.

13 THE COURT: What, the translation? Ana? We must
14 have the translation. No problem.

15 Let me see if I understood what you were
16 requesting, all right. Thank you.

17 Okay. So what we do then is we will put first the
18 English translation, and in the back we place the --

19 MS. GORBEA: Translation.

20 THE COURT: -- the translation.

21 MS. GORBEA: Yes. But for the record, Your Honor,
22 we haven't informed the Court as to the translations for the
23 documents that are in Spanish.

24 THE COURT: Okay.

25 MS. GORBEA: That is why -- I don't know if the

1 Court would like the Government to just mention it after --

2 THE COURT: But -- fine. You do that. Do that in
3 front of the jury.

4 MS. GORBEA: Okay. Perfect.

5 THE COURT: No problem.

6 The questions were asked, and he answered them in
7 Spanish, and he translated it himself, did he not?

8 MS. GORBEA: No, the translations --

9 THE COURT: Was made by the translator?

10 MS. GORBEA: By the translator.

11 THE COURT: And he is an official translator,
12 right?

13 MS. GORBEA: He is.

14 THE COURT: So there is no problem as to the
15 transcript?

16 MS. GORBEA: No. As to the transcript, no.

17 THE COURT: So the only problem is the document.

18 MS. GORBEA: Exactly.

19 THE COURT: All I am requesting you to do is to
20 translate each one in the same form that they are.

21 MS. GORBEA: Yes.

22 THE COURT: All right. Thank you.

23 MS. GORBEA: Thank you, Your Honor.

24 THE COURT: Okay. All right. Thank you. So for
25 you, we are resting until 3:00 o'clock. All right. Thank

1 you.

2 (WHEREUPON, the proceedings were recessed until
3 3:12 p.m., this date.)

4 CROSS EXAMINATION

5 BY MR. RIVERA-RODRIGUEZ:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. My name is Luis Rivera. I am going to be posing some
9 questions on behalf of Mrs. Yaira Cotto.

10 THE COURT: Mr. Rivera, get close to the mike
11 because if not, we won't hear you. All right.

12 MR. RIVERA-RODRIGUEZ: Can you hear me now?

13 THE COURT: Barely. What she did was that she
14 moved the microphone closer to her and left her notes where
15 you have them. I have no problem in you giving me your
16 back. I prefer to see and hear the question.

17 MR. RIVERA-RODRIGUEZ: Okay, Your Honor.

18 THE COURT: Okay. So don't worry about that, all
19 right.

20 MR. RIVERA-RODRIGUEZ: The technician is working
21 on that now.

22 THE COURT: Okay. All right.

23 MR. RIVERA-RODRIGUEZ: What about now? Can you
24 hear me better?

25 THE COURT: Excuse me?

1 MR. RIVERA-RODRIGUEZ: Can you hear me better now?

2 THE COURT: Well, if you get closer to that mike,
3 the better.

4 MR. RIVERA-RODRIGUEZ: What about now?

5 THE COURT: Yes. Now, yes. Thank you.

6 MR. RIVERA-RODRIGUEZ: May it please the Court.

7 THE COURT: Yes, sir.

8 BY MR. RIVERA-RODRIGUEZ:

9 Q. Sir, I am going to be posing some questions on behalf of
10 Mrs. Yaira Cotto. And you knew Yaira Cotto as your teacher
11 in ninth grade?

12 A. Correct.

13 Q. And as you have said here, you would call her "Mi
14 Princesa"?

15 A. Correct.

16 Q. And that's a nickname that you created?

17 A. Correct.

18 Q. In your own mind, she was your princess?

19 A. Correct.

20 Q. And in your own mind, she was your own girlfriend?

21 MS. GORBEA: Objection, Your Honor; speculative.

22 THE COURT: Excuse me? It's in his mind. In his
23 mind. It's in his mind. That's correct. I will let the
24 question ride.

25 BY MR. RIVERA-RODRIGUEZ:

1 Q. In your own mind, she was your girlfriend?

2 A. Correct.

3 Q. Okay. And according to you, you exchanged many
4 messages. It was text messages and WhatsApp messages?

5 A. Yes.

6 Q. And at that time, you were sufficiently proficient to
7 deal with those applications?

8 A. That's correct.

9 THE INTERPRETER: Counsel, I am being informed
10 that we are not being heard in that courtroom.

11 THE COURT: In ours? We are hearing him, barely,
12 but --

13 MR. RIVERA-FERNANDEZ: They are being barely heard
14 here, both the witness and the attorney.

15 THE INTERPRETER: The interpreter or the attorney?

16 MR. RIVERA-FERNANDEZ: Both of them. Counsel, can
17 you speak to the bar microphone?

18 MR. RIVERA-RODRIGUEZ: Your Honor, your clerk came
19 downstairs with the technician. You cannot see that on the
20 screen, but they just went out.

21 THE COURT: Okay. Very well. So let's wait until
22 he comes back.

23 MR. RIVERA-RODRIGUEZ: Very well, Your Honor.

24 THE COURT: Okay. But let me say something to
25 you. She operated the -- the AUSA operated in a way --

1 that's the way she operated, the way you have the mike; not
2 that way, but looking the opposite way, and you get closer
3 to the mike that way.

4 (WHEREUPON, discussion was had off the record.)

5 THE COURT: All right. There you go. Now, the
6 witness, the minor, get closer to the mike. Thank you.

7 THE INTERPRETER: Can you hear me?

8 THE COURT: Yes, we can. So Mr. Rivera, hold it
9 one second. If you want to start again, go right ahead and
10 start again. I have no problem.

11 MR. RIVERA-RODRIGUEZ: I will do my best to repeat
12 the questions.

13 THE COURT: Go ahead.

14 BY MR. RIVERA-RODRIGUEZ:

15 Q. Okay. Sir, I have to repeat the questions, so bear with
16 me, please.

17 Can I call you [REDACTED]?

18 A. Yes.

19 Q. Very well. [REDACTED], I was asking you before if, in your
20 own mind, Yaira was your girlfriend.

21 A. Yes.

22 Q. And you were exchanging many messages, like text
23 messages and WhatsApp messages?

24 A. Yes.

25 Q. And that was for the better part of November to

1 December, 2015?

2 A. Correct.

3 Q. And then again you resumed texting and messaging from
4 January to February 2016?

5 A. Correct.

6 Q. And many of those messages contained loving messages?

7 A. Correct.

8 Q. Like when two people are in love?

9 A. Yes.

10 Q. And at that point in time, you felt that you were in
11 love?

12 MS. GORBEA: Objection, Your Honor.

13 MR. RIVERA-RODRIGUEZ: Your Honor, I have a
14 statement from the witness that he wrote to that effect, and
15 those words were --

16 MS. GORBEA: Your Honor, it goes to the consent of
17 the minor.

18 MR. RIVERA-RODRIGUEZ: I am not talking about
19 consent here. I am talking about feelings.

20 THE COURT: So listen to -- the question is, did
21 you fall in love with her?

22 I am not hearing it.

23 BY THE WITNESS:

24 A. I think so.

25 BY MR. RIVERA-RODRIGUEZ:

1 Q. Okay. As a matter of fact, you wrote a statement -- you
2 wrote a statement to the Department of Education saying that
3 you were in love with her?

4 A. Yes.

5 Q. In those texts that you exchanged, you were also saying
6 things to her in terms of fantasies; is that correct?

7 A. Correct.

8 Q. And she would tell you also things in terms of
9 fantasies?

10 A. Correct.

11 Q. Now, the day in question that we are dealing here with
12 in this situation is March the 1st, 2016; is that correct?

13 A. Correct.

14 Q. And before that time, she gave you a watch as a gift?

15 A. Yes.

16 Q. And I believe she also gave you some other gift, like
17 something for your face.

18 A. Correct.

19 Q. That's because you were developing acne or some skin
20 problem on your face?

21 A. Yes.

22 Q. She was concerned about you and she gave you that?

23 A. It seemed like it.

24 Q. And you also gave her a gift; isn't that correct?

25 A. I don't remember.

1 Q. Do you remember giving Yaira a pair of baseball bats?

2 A. I think so.

3 Q. And those baseball bats were purchased by your mother?

4 A. I don't remember.

5 Q. And one of those baseball bats was quite special? It
6 was a limited edition bat?

7 A. I don't remember, but no bat is special.

8 Q. And those two bats, do you remember the price? Maybe it
9 was around 150, each one, if you remember?

10 A. It was like --

11 Q. How did you take those bats?

12 A. Because I am given the bats. My father buys the bats
13 and he gives it to me. I don't have to be at the store for
14 him to give me that.

15 Q. So these were not bats that were given to you as a gift
16 from your team?

17 A. No.

18 Q. You play baseball?

19 A. Correct.

20 Q. Is that a pastime or do you want to become eventually a
21 professional baseball player?

22 MS. GORBEA: Objection; Your Honor.

23 THE COURT: Sustained.

24 MS. GORBEA: Irrelevant.

25 THE COURT: Sustained.

1 BY MR. RIVERA-RODRIGUEZ:

2 Q. Okay. So you gave Yaira those two bats. How did you
3 give those bats to Yaira? How did you give them?

4 A. Giving them to her.

5 Q. Did you give them to her at school? Do you remember
6 that?

7 A. Yes.

8 Q. And actually, you were transported from your home to the
9 school with those two bats along with your mother?

10 MS. GORBEA: Objection, Your Honor; relevancy.

11 MR. RIVERA-RODRIGUEZ: Your Honor, we are talking
12 about gifts that were exchanged here. I think I should be
13 able to go into that. It's not a one-way street. It was
14 both ways. He was also giving gifts.

15 THE COURT: Did your mother know that you were
16 going to provide those two bats to the teacher?

17 THE WITNESS: I don't think so.

18 MR. RIVERA-FERNANDEZ: Your Honor, that question
19 calls for speculation as to what the mother knew.

20 THE COURT: Did you tell your mother you were
21 going to provide those bats to the teacher?

22 THE WITNESS: I don't remember that either.

23 BY MR. RIVERA-RODRIGUEZ:

24 Q. So aside from those bats, do you remember any other
25 gifts that you gave to Yaira?

1 A. No.

2 Q. What about the pair of baseball socks?

3 A. Yes, I did give them to her.

4 Q. And you remember you gave that to her too?

5 A. Correct.

6 Q. And those were gifts intended to be used by her
7 children; is that correct?

8 A. Yes.

9 Q. Because you knew that she had --

10 MS. GORBEA: Objection, Your Honor; relevancy and
11 out of the scope of the direct.

12 THE COURT: Sustained as to that. Sustained.
13 Sustained. The part that is not sustained that's still on
14 the record is that she gave her the socks, period.

15 MR. RIVERA-RODRIGUEZ: He gave her the socks.

16 THE COURT: Yes. He gave her the socks.

17 BY MR. RIVERA-RODRIGUEZ:

18 Q. Aside from those --

19 MS. GORBEA: Your Honor, excuse me. Before
20 Mr. Rivera continues with the line of questioning, we need
21 to approach, Your Honor.

22 THE COURT: No, no, no. You brought in the gifts
23 that she gave to him. Now we have this other balancing act,
24 or whatever you want to do, with that. But this doesn't go
25 at all to the crux of the material.

1 MS. GORBEA: But Your Honor, this is not as to the
2 gifts. This is as to something else that the Government
3 would like --

4 THE COURT: We can't have two lawyers objecting.
5 That's another matter. Is that it? We cannot have two
6 lawyers from the same side objecting; one asking questions
7 and the other objecting, because he can defend himself. He
8 is over age. Aren't you? Mr. Rivera, are you over age?

9 MR. RIVERA-RODRIGUEZ: Yes, I am over age.

10 THE COURT: Both of you, right?

11 MR. RIVERA-RODRIGUEZ: Yes.

12 MS. GORBEA: May we approach, Your Honor?

13 THE COURT: Okay. Go ahead.

14 MR. RIVERA-RODRIGUEZ: Should we go upstairs?

15 THE COURT: You have to.

16 (WHEREUPON, the following proceedings were had at
17 sidebar outside the presence and hearing of the
18 jury:)

19 THE COURT: Okay.

20 MS. GORBEA: The objection is not as to the
21 questions regarding the gifts. The objection is as to the
22 potential question involving jury nullification like talking
23 about her children. That could be one of the reasons for
24 jury nullification, because then the jury might take pity on
25 her by knowing that she has children. So what the

1 Government wants to avoid is that through the back door,
2 defense counsel may try to bring the consent of the minor,
3 which he cannot talk about.

4 THE COURT: What consent?

5 MS. GORBEA: And the potential jury nullification,
6 because this may go to the jury nullification, just
7 informing by a question to the jury that this defendant has
8 children.

9 THE COURT: Or that she is married.

10 MS. GORBEA: Well --

11 MR. RIVERA-RODRIGUEZ: That's not jury
12 nullification. I can personalize my client and sit her down
13 and talk about her. I never heard that before, that -- jury
14 nullification is when you argue certain -- you present
15 certain arguments to the jury in order to circumvent the
16 law. I am not trying to do that.

17 MS. GORBEA: Not to circumvent the law; to try to
18 get the jury to have pity on her because she has children.

19 MR. RIVERA-RODRIGUEZ: Just because she said that,
20 they are going to have pity on her? A lot of criminals have
21 children.

22 THE COURT: The package is a little bit more
23 dangerous than you think.

24 MR. RIVERA-RODRIGUEZ: I am not going to ask
25 anything else about the children.

1 THE COURT: Talking about the children, pretty
2 soon you are going to get, oh, they are young and, you know,
3 at this point the jury can think then, oh, this lady is
4 facing a sentence, and she has more children.

5 MR. RIVERA-RODRIGUEZ: I was not going to ask
6 anything else about the children. I was going to another
7 subject.

8 THE COURT: Okay. Go to another subject.

9 (WHEREUPON, the following proceedings were had in
10 open court in the presence and hearing of the
11 jury:)

12 BY MR. RIVERA-RODRIGUEZ:

13 Q. Okay. March 1, 2016, you remember that date vividly,
14 don't you?

15 A. Yes.

16 MR. RIVERA-FERNANDEZ: We cannot hear the
17 translator, Your Honor.

18 BY MR. RIVERA-RODRIGUEZ:

19 Q. Can you repeat the answer.

20 THE COURT: So the question was, March 1, 2016,
21 you remember that date vividly?

22 BY THE WITNESS:

23 A. Yes.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. And you remember everything you did that day?

1 A. Almost everything.

2 Q. Okay. First of all, did you talk to your mother about
3 leaving school early?

4 A. Yes.

5 Q. And you spoke also to a lady whose name is Lydia Mojica?

6 A. Correct.

7 Q. Okay. And you told Lydia Mojica that you wanted to
8 leave early?

9 A. Yes.

10 Q. And what was the reason that you gave Lydia Mojica to
11 leave early?

12 A. That I was going to go to the barbershop.

13 Q. And then to your grandmother's house? Did you say that?

14 A. Yes.

15 Q. And did you take a phone away from Lydia in order to
16 make a call to your mother?

17 A. I don't remember.

18 Q. Do you remember if you talked to your mother also that
19 day?

20 THE COURT: At what time?

21 BY MR. RIVERA-RODRIGUEZ:

22 Q. Around noontime?

23 A. I think so.

24 Q. What did you tell your mother?

25 A. The same thing I told her.

1 Q. And that was a lie, of course?

2 A. Of course.

3 Q. You did it knowing it was a lie?

4 MS. GORBEA: Objection.

5 BY MR. RIVERA-RODRIGUEZ:

6 Q. You said the lie knowing that it was a lie?

7 MS. GORBEA: Asked and answered, Your Honor.

8 Objection.

9 MR. RIVERA-RODRIGUEZ: I introduced the element
10 "knowingly."

11 THE COURT: I didn't see any weapons -- him being
12 under any sort of problem not to be able to do it knowingly.

13 MS. GORBEA: Objection to the question, Your
14 Honor.

15 THE COURT: Sustained.

16 BY MR. RIVERA-RODRIGUEZ:

17 Q. Sir, and you told your mother that you were leaving the
18 school early to go to the barbershop -- to Joseito's
19 barbershop?

20 MS. GORBEA: Objection, Your Honor; asked and
21 answered.

22 THE COURT: You may answer.

23 BY THE WITNESS:

24 A. Yes.

25 BY MR. RIVERA-RODRIGUEZ:

1 Q. Okay. And after you talked to your mother, you went to
2 the principal's office to sign a document; is that correct?

3 A. Correct.

4 Q. The registry -- registry of early release of students?

5 A. Yes.

6 Q. And when you signed that document, you were leaving
7 early, but you knew that you were signing also a document
8 falsely?

9 MS. GORBEA: Objection, Your Honor.

10 THE COURT: The objection is as to fraudulent,
11 correct?

12 MS. GORBEA: Exactly. That is the objection of
13 the Government.

14 THE COURT: I would rather you use the word
15 "lying" or "not truthful," all right. Fraudulently is
16 something else. All right. Thank you.

17 BY MR. RIVERA-RODRIGUEZ:

18 Q. So you were signing -- when you signed this document,
19 you also knew that you were signing into a lie?

20 A. Yes.

21 Q. And you say that you did not write the word "infirm,"
22 sick?

23 A. I did not.

24 Q. So you didn't tell anyone that you were sick?

25 A. I didn't tell anyone.

1 Q. You don't remember?

2 A. I didn't say.

3 Q. Who wrote the word "infirmas," if you know, sick, in this
4 document, Government Exhibit 4?

5 A. I don't know who wrote it.

6 Q. Okay. Did you see Lydia Mojica write it in this
7 document?

8 A. No. I saw me signing the document.

9 Q. You saw yourself signing it?

10 A. Yes.

11 THE COURT: That means you didn't see her signing,
12 Lydia Mojica?

13 THE WITNESS: I didn't see her.

14 BY MR. RIVERA-RODRIGUEZ:

15 Q. Did you tell Lydia --

16 A. I did hear her talking about signing the document, but I
17 didn't see her signing the document because I wasn't
18 interested in that at that time.

19 Q. Did you tell Lydia Mojica that you were leaving because
20 you were sick?

21 MS. GORBEA: Asked and answered, Your Honor.
22 Objection.

23 THE COURT: Sustained.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. Okay. Sir, when you left the school after signing that

1 registry, tell the members of the jury which way you left
2 the school from the principal's office.

3 A. Toward where Joseito was.

4 Q. Did you get out of the school through the main gate
5 where the vehicles leave?

6 A. Yes.

7 Q. And then you have to turn right in order to go down to
8 Joseito's barbershop; is that correct?

9 A. Correct.

10 Q. If you turn left, you go down to La Casa de Abuela
11 restaurant?

12 A. I first turned right, then I turned left toward where
13 she was going to pick me up, which was Casa de Abuela.

14 Q. Hold on a second. First of all, did you turn right as
15 soon as you left the school through the main gate?

16 MS. GORBEA: Objection, Your Honor; asked and
17 answered.

18 THE COURT: I thought he said yes.

19 MR. RIVERA-RODRIGUEZ: It is confusing --

20 THE COURT: No, he said he went right and then at
21 the next street he went left to go to the restaurant,
22 whatever it was.

23 MR. RIVERA-RODRIGUEZ: Okay.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. You said that you turned left after turning right out of

1 the main gate?

2 MS. GORBEA: Objection; that is not what the
3 witness said, Your Honor.

4 THE COURT: No, he said he went right and then he
5 went left. I think that's correct.

6 BY MR. RIVERA-RODRIGUEZ:

7 Q. Did you say that, that you went right and then you
8 turned left?

9 A. I turned right and then I went left, and I went down to
10 Casa de Abuela.

11 Q. So you were doing that to give the impression that you
12 were going to Joseito's barbershop?

13 A. Correct.

14 Q. So that's a maneuver that you created to deceive, maybe,
15 someone that was looking at you?

16 A. Correct.

17 Q. Who did you think were looking at you when you left the
18 school?

19 A. Everybody could have been looking at me.

20 Q. But then, in order to go to Joseito's barbershop, you
21 have to walk about five minutes to get to that barbershop?

22 MS. GORBEA: Objection, Your Honor.

23 THE COURT: But he wasn't going to Joseito. He
24 said he was going to the place of the grandmother, where he
25 would be picked up.

1 MS. GORBEA: Yes. We need to object to this line
2 of questioning. It's misleading and confusing to the jury.

3 THE COURT: I don't think it's -- well --

4 MR. RIVERA-RODRIGUEZ: Let me rephrase, Your
5 Honor.

6 MS. GORBEA: Speculative.

7 THE COURT: What I think -- he was very clear. He
8 said that he went right and then he went left. That's what
9 he said.

10 BY MR. RIVERA-RODRIGUEZ:

11 Q. When you walked to the right and then walked to the
12 left, how long did you walk; how many minutes?

13 A. Maximum, ten minutes. In reaching Casa de Abuela, when
14 I turned right, then left, going to Casa de Abuela, maximum
15 ten minutes.

16 Q. What I am asking you is how long it took you to turn to
17 the right before you turned around. How long?

18 MS. GORBEA: Objection, Your Honor; asked and
19 answered.

20 THE COURT: He is asking for time for the first
21 corner. It's a little different. It is different. Go
22 ahead.

23 THE WITNESS: Can you repeat the question, please.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. How long did it take you to walk to the right of the

1 school by the gate before you turned around to the left?

2 A. No more than five minutes.

3 Q. Okay. So you walked five minutes to the right and then
4 you turned back towards the restaurant Casa de Abuela?

5 A. Well, I told you before that it was no more than five
6 minutes going to the right, turning to the left. I told you
7 that it was maximum ten minutes in doing both, in reaching
8 Casa de Abuela.

9 Q. Your testimony is that you left the school at 12:45 p.m.
10 Is that what you testified to the questions by the
11 prosecutor?

12 A. I'm sorry?

13 Q. That you left the school at 12:45 p.m., according to the
14 registry. Is that what you answered before?

15 A. Seems like it.

16 Q. Isn't that what it reflects on the document that you
17 signed?

18 A. Correct.

19 THE COURT: Look, did you put down the hour or did
20 the other lady put down the hour?

21 THE WITNESS: The woman.

22 BY MR. RIVERA-RODRIGUEZ:

23 Q. And that seemed to be right at that time?

24 A. Right.

25 Q. Okay. Then you walk -- let me ask you. Before, you

1 said you were walking towards Restaurant Casa de Abuela.

2 MR. RIVERA-RODRIGUEZ: You can translate that.

3 THE INTERPRETER: Can you repeat it, Counsel?

4 BY MR. RIVERA-RODRIGUEZ:

5 Q. Before talking about Restaurant Casa de Abuela, let me
6 ask you something. Did you at anytime get yourself into a
7 white car in front of the school?

8 MS. GORBEA: Objection, Your Honor; out of the
9 scope of the direct.

10 THE COURT: No, I will -- I don't know what
11 happened. He is now asking if he, in between, went into a
12 white car.

13 BY THE WITNESS:

14 A. I didn't get into any car that wasn't the Kia.

15 BY MR. RIVERA-RODRIGUEZ:

16 Q. At that time, did you have a friend or someone who had a
17 white car?

18 A. No.

19 Q. And when you said that you walked towards Casa de
20 Abuela, you said you had to wait for about five more minutes
21 down there?

22 MS. GORBEA: I think the --

23 THE INTERPRETER: Interpreter stands corrected.

24 BY THE WITNESS:

25 A. No more than five minutes.

1 BY MR. RIVERA-RODRIGUEZ:

2 Q. Okay. And --

3 THE COURT: The more than five minutes is the time
4 of walking from one corner -- first corner, going to the
5 left, right?

6 MR. RIVERA-RODRIGUEZ: Yes, sir, that's five
7 minutes.

8 THE COURT: Okay. But now you are asking another
9 five minutes, Mr. Rivera.

10 MR. RIVERA-RODRIGUEZ: Let me ask another
11 question.

12 THE COURT: Because I thought you were asking him
13 to put in minutes the time that he was waiting for the car
14 to arrive.

15 MR. RIVERA-RODRIGUEZ: That is correct. That's
16 what I asked.

17 THE COURT: Okay. So you have to be very clear to
18 him. Go ahead. Ask the question so it is clear to him what
19 it is.

20 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

21 BY MR. RIVERA-RODRIGUEZ:

22 Q. How long were you waiting at Casa de Abuela restaurant?
23 How long were you waiting that day on March 1, 2016?

24 A. Not more than five minutes, like I just said.

25 Q. Had you seen Yaira leaving the school before you did?

1 A. Correct.

2 Q. And by car, how long is it from the school to La Casa de
3 Abuela?

4 A. About three minutes.

5 Q. So it's three minutes by car and ten minutes walking?

6 MS. GORBEA: Your Honor, the witness says like or
7 approximately three minutes.

8 MR. RIVERA-RODRIGUEZ: About three minutes.

9 BY MR. RIVERA-RODRIGUEZ:

10 Q. Am I right; about three minutes by car?

11 A. About three minutes, correct.

12 Q. Okay. When you got there, Yaira wasn't there, according
13 to you? Yaira wasn't there waiting for you?

14 A. No. She arrived in less than five minutes.

15 Q. And when you saw her, which way was she coming from?

16 A. Further down from Casa de Abuela.

17 Q. You said -- further down is towards the school or
18 towards the motel?

19 A. They are not the same road.

20 Q. That's fine. I am saying, in relation with the
21 restaurant Casa de Abuela, she was coming from school up or
22 down from the motel?

23 A. They are not in the same area, not the school or the
24 motel. As I repeated to you, it's one street.

25 Q. Isn't it true that restaurant Casa de Abuela is located

1 at an intersection? Correct?

2 When you come down from the school, there is a
3 slope, a downhill slope; is that correct?

4 A. Correct.

5 Q. And you can turn left or continue right up to the motel?

6 A. Correct.

7 Q. I am asking you, where was the car -- where was the car
8 that you said Yaira was driving? Where was that car coming
9 from?

10 A. It was coming from the street that I told you before;
11 the street that's a bit further from Casa de Abuela.

12 THE COURT: Sir, the question is -- you are saying
13 it came in from the street, and he is trying to find out
14 whether it was on the left side or coming from the right
15 side. Which side was it? That's your question, Mr. Rivera?

16 MR. RIVERA-RODRIGUEZ: Yes, Your Honor, that's
17 precisely the question.

18 THE COURT: So sir, the question is whether the
19 car was coming up to the La Casa de Abuela or was it coming
20 from the left or from the right, if you know?

21 THE WITNESS: Straight because it's right through
22 the street. It doesn't have a right or left.

23 THE COURT: Okay. Very well.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. You are sure you saw that car getting into Casa de

1 Abuela? Are you positive you saw that car?

2 THE COURT: Sustained. You are standing.

3 Sustained. Next question.

4 BY MR. RIVERA-RODRIGUEZ:

5 Q. You said that you went to a motel with Yaira, and you
6 said -- is that correct?

7 A. Correct.

8 Q. You said that you were at that motel three hours?

9 A. Approximately.

10 Q. And then at what time were you at Casa de Abuela?

11 MS. GORBEA: Objection, Your Honor; this question
12 has been asked and answered.

13 MR. RIVERA-RODRIGUEZ: At what time he arrived --

14 MS. GORBEA: The witness --

15 THE COURT: We don't know at what time he actually
16 left. We know what the paper says. So ask him then at what
17 time.

18 MR. RIVERA-RODRIGUEZ: Yes, Your Honor. He said,
19 "I don't remember." That's what he said.

20 THE INTERPRETER: The interpreter hasn't
21 interpreted.

22 MR. RIVERA-RODRIGUEZ: The interpreter didn't
23 interpret, but he answered.

24 BY THE WITNESS:

25 A. I don't know.

1 BY MR. RIVERA-RODRIGUEZ:

2 Q. Okay. You don't know.

3 You said you spent about three hours in that
4 motel, and you returned to the school grounds or the school
5 area about 4:00 p.m.; is that correct?

6 MS. GORBEA: I have to object to the question.
7 The witness says approximately three hours.

8 MR. RIVERA-RODRIGUEZ: Your Honor, the witness may
9 be able to correctly state by himself at what time, more or
10 less --

11 THE COURT: You see, but the problem is, if he
12 used "around," it's around. It's not three hours. So I
13 don't know what he said.

14 MR. RIVERA-RODRIGUEZ: But before, Your Honor --
15 before, on direct examination, he said three hours. Now he
16 is saying around three hours.

17 MS. GORBEA: Your Honor, the witness has said
18 approximately or around three hours.

19 MR. RIVERA-RODRIGUEZ: May I ask him what he said
20 before, Your Honor?

21 THE COURT: Go ahead.

22 MS. GORBEA: Asked and answered.

23 THE COURT: No. Go ahead.

24 BY MR. RIVERA-RODRIGUEZ:

25 Q. When you were asked by the prosecutor this morning, did

1 you say that you were three hours in the motel?

2 A. Approximately three hours.

3 Q. All right. So if you were at the motel approximately
4 three hours, and you left, approximately, La Casa de Abuela
5 restaurant about 1:00, you returned to the school grounds
6 about 4:00 p.m.; is that correct?

7 A. I don't remember what time we arrived.

8 Q. And then was your testimony that Yaira left you close to
9 La Casa de Abuela restaurant?

10 A. Correct. A little further up.

11 Q. But not in front of the school?

12 A. No.

13 Q. Okay. So you walked towards the school?

14 A. Correct.

15 Q. And what happened when you walked towards the school?

16 A. I walked and I got to the school.

17 Q. That's all you did?

18 A. Correct.

19 Q. And you didn't talk to anyone while you were there?

20 THE COURT: The "camino" or in the school? What's
21 the question?

22 MR. RIVERA-RODRIGUEZ: On his way there.

23 THE COURT: On his way over there, did you -- from
24 the Casa de Abuela to the school, did you talk to anyone?

25 THE WITNESS: No. And if I did talk to anyone, it

1 was with her --

2 THE COURT: With whom her?

3 THE WITNESS: Yaira Cotto.

4 THE COURT: Who her? Because the question is
5 posed after she left you.

6 THE WITNESS: Yaira Cotto.

7 THE COURT: So here is the question. The question
8 is, after Yaira Cotto left you a little higher than Casa de
9 Abuela to the time that you got to the school, did you talk
10 to anybody?

11 THE WITNESS: No. And if I did talk to anyone, it
12 was possibly with her.

13 THE COURT: Because you were texting her?

14 THE WITNESS: Texting or a call. I don't
15 remember.

16 THE COURT: All right. Go ahead.

17 BY MR. RIVERA-RODRIGUEZ:

18 Q. Once you got to the school, you saw your mother there?

19 A. At the office.

20 Q. You talked to the principal also?

21 A. Correct.

22 Q. And the social worker was there too? No? I mean, I am
23 asking you.

24 A. I don't remember.

25 Q. And they asked you where you were, and you said that you

1 were at the basketball court; is that what you said?

2 A. Yes.

3 Q. And that was a lie, of course? You lied to them?

4 A. Correct.

5 Q. So you lied to them before getting out of the school and
6 after you returned to school?

7 A. Correct.

8 Q. And then you left the school with your mother?

9 A. After I left the office, yes.

10 Q. And after that, after leaving the school, you talked to
11 your mother and your father, I assume?

12 A. Correct.

13 Q. And then you returned to school for regular school time?

14 A. Yes.

15 Q. Did you tell anybody when you were asked -- did somebody
16 ask you at school if you were with Yaira?

17 A. No, because I didn't talk about my personal life.

18 Q. Did some people ask you, like your friends, about what
19 happened that day, and you said you were not with Yaira?

20 A. Correct.

21 Q. And you denied being with Yaira to your friends and
22 other people?

23 A. Correct.

24 Q. And you denied being with Yaira for sometime? You
25 denied that?

1 A. Correct.

2 Q. Okay. At anytime -- I am asking you if there was a time
3 that your mother was interviewed by Social Services,
4 Department of Family.

5 A. I don't know if she was interviewed.

6 Q. I am asking about your knowledge; if you were present at
7 anytime that anybody from the school -- school, the legal
8 department, interviewed your mother.

9 MS. GORBEA: Objection, Your Honor; this is asking
10 for hearsay.

11 MR. RIVERA-RODRIGUEZ: No, I am asking whether she
12 was interviewed or not; not what she said.

13 THE COURT: Well, do you have any personal
14 knowledge when she was interviewed -- your mother was
15 interviewed by -- by who, sir? By whom, Mr. Rivera?

16 MR. RIVERA-RODRIGUEZ: I thought you were asking
17 the witness. I know that she was interviewed by the legal
18 department --

19 THE COURT: No, the question. Was she interviewed
20 by whom? That's the question, right? I am asking --

21 MR. RIVERA-RODRIGUEZ: Yes, it was.

22 THE COURT: I am asking so that I don't make a
23 misrepresentation of your question.

24 MS. GORBEA: Your Honor, and the witness answered
25 it --

1 MR. RIVERA-RODRIGUEZ: My question is, as far as
2 you know -- do you have knowledge, was your mother
3 interviewed by any other, I would say, legal department or
4 the Department of Family?

5 THE COURT: Well, that is asking -- if you are
6 going to go to the contents of what happened there, that's
7 going to be hearsay unless he was present.

8 MR. RIVERA-RODRIGUEZ: I am not going to ask about
9 the contents. I just want to know if she was interviewed,
10 to his knowledge.

11 MS. GORBEA: And the witness answered, Your Honor.

12 THE COURT: Well, were you present at anytime when
13 your mother was being interviewed?

14 THE WITNESS: I wasn't present.

15 BY MR. RIVERA-RODRIGUEZ:

16 Q. Did you talk to your mother, and she told you that she
17 had been interviewed?

18 MS. GORBEA: Objection, Your Honor; hearsay.

19 MR. RIVERA-RODRIGUEZ: Your Honor, that witness is
20 still pending. She is under the rules of the court, and she
21 has testimony pending.

22 MS. GORBEA: Objection, Your Honor.

23 THE COURT: It's still hearsay. Right now it is.
24 The answer is going to be hearsay.

25 MS. GORBEA: So the Government objects to the

1 question, Your Honor.

2 THE COURT: Well, if he is looking for the
3 contents, the contents, it would be hearsay. If you saw
4 your mother, that's not hearsay, being interviewed.

5 MS. GORBEA: The witness already responded to
6 that. He said that he didn't.

7 THE COURT: Okay. Fine.

8 BY MR. RIVERA-RODRIGUEZ:

9 Q. At any point in time, were you concerned that there
10 would be problems with your family because of whatever you
11 allege happened with Yaira; if you were concerned?

12 MS. GORBEA: Objection, Your Honor; speculative.

13 MR. RIVERA-RODRIGUEZ: I am asking about his state
14 of mind at that time.

15 MS. GORBEA: That is outside the scope of the
16 direct.

17 MR. RIVERA-RODRIGUEZ: That goes to motive for
18 fabrication, Your Honor.

19 MS. GORBEA: Motive?

20 MR. RIVERA-RODRIGUEZ: That goes to motive, Your
21 Honor.

22 THE COURT: So you are saying it's motive for
23 fabrication by him of what? That he was illegally with a
24 teacher?

25 MR. RIVERA-RODRIGUEZ: That he supposedly was

1 taken by the teacher to a motel. I am trying to ascertain
2 what -- what was his state of mind when he decided to change
3 his testimony. He said no all the time, nothing happened.
4 All of a sudden he changed. I am trying to find out why he
5 changed.

6 THE COURT: Go ahead.

7 BY MR. RIVERA-RODRIGUEZ:

8 Q. I am asking you again, were you concerned for the
9 well-being of your family when you said later on that you
10 weren't with Yaira at the motel?

11 A. I'm sorry?

12 Q. Your testimony -- your statements to the school
13 principal was that you were not with Yaira. Did you change
14 that testimony?

15 A. Correct.

16 Q. Okay. So I am asking you if you were preoccupied with
17 your family in any way because you were with Yaira.

18 A. Correct.

19 Q. And that preoccupation comes from where?

20 A. That I was going to get it from my family if I would
21 tell them that I was with her.

22 Q. I am asking you if you were aware at anytime -- if you
23 were aware at anytime that your family was being
24 investigated by the Legal Department of Education or by the
25 Department of Family Affairs.

1 MS. GORBEA: Objection, Your Honor --

2 THE COURT: The family was never a defendant.

3 MS. GORBEA: Exactly.

4 THE COURT: The investigation is another
5 investigation, but it's not an investigation of the family.

6 MS. GORBEA: The witness' family was never
7 investigated, Your Honor.

8 MR. RIVERA-RODRIGUEZ: I am trying to ascertain
9 whether at any point in time that occurred.

10 MS. GORBEA: Objection, Your Honor; the
11 Government --

12 THE COURT: He is not the investigator. He is not
13 the investigator.

14 MR. RIVERA-RODRIGUEZ: I am asking if he knows.

15 THE COURT: If he knows? No. Hold it. This is
16 not an investigation against the family.

17 MR. RIVERA-RODRIGUEZ: Your Honor, at the
18 beginning, there was no investigation.

19 THE COURT: Fine.

20 MR. RIVERA-RODRIGUEZ: In the beginning. I am
21 trying to ascertain why he changed; what was the change of
22 heart that he had at that time.

23 THE COURT: That he is worried that his family was
24 going to get investigated?

25 MS. GORBEA: Your Honor, that is a misstatement of

1 the facts.

2 MR. RIVERA-RODRIGUEZ: I won't put things on the
3 record --

4 THE COURT: The record does not reflect any
5 investigation whatsoever of the family, and this is going
6 to -- this, I don't think, should be a subject of a question
7 to him.

8 MS. GORBEA: Your Honor, the Government moves that
9 the question be stricken from the record.

10 THE COURT: But there is no answer. They know
11 that if there is no answer, then it is not part of the
12 record.

13 MR. RIVERA-RODRIGUEZ: Yes, Your Honor. I will be
14 more direct.

15 THE COURT: Go ahead.

16 BY MR. RIVERA-RODRIGUEZ:

17 Q. [REDACTED], you went to the offices of the legal department
18 on May 15, 2016?

19 A. Yes.

20 Q. And that was the first time that you issued a statement?

21 A. Correct.

22 Q. And in that statement, you said that you voluntarily got
23 into a car with Mrs. Cotto? Is that what you said?

24 A. Correct.

25 MS. GORBEA: Before we move on, may we --

1 THE COURT: Sustained. Sustained.

2 MS. GORBEA: May we approach --

3 THE COURT: The law says minors cannot --

4 MS. GORBEA: Consent.

5 THE COURT: -- cannot volunteer nothing.

6 MS. GORBEA: Your Honor, we need to approach as to
7 this matter.

8 MR. RIVERA-RODRIGUEZ: I don't have any more
9 questions in that regard. I am going to move on to another
10 subject.

11 THE COURT: I have to clarify now that it is quite
12 clear that minors cannot provide any consent. It's clear.
13 They cannot provide consent. Or is that not correct? A
14 minor cannot consent, right?

15 MR. RIVERA-RODRIGUEZ: At the judge's
16 instructions, yes.

17 THE COURT: That's going to be the judge's
18 instructions. So questions that go towards his consent are
19 going to be misleading to the jury. So go ahead.

20 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

21 BY MR. RIVERA-RODRIGUEZ:

22 Q. On that occasion, you gave a statement for the first
23 time, written statement; is that correct?

24 A. Correct.

25 Q. And you said that you went with Yaira to a motel?

1 A. Correct.

2 Q. And that statement is the truth? Whatever you wrote
3 here is the truth?

4 A. Correct.

5 Q. But you told the jury a few minutes ago that when you
6 went to La Casa de Abuela, Yaira -- and you were waiting for
7 Yaira; isn't that correct?

8 A. I didn't wait more than five minutes. That's what I
9 said before, five times.

10 Q. I am going to show you testimony, okay, that you gave
11 before.

12 Isn't it true that you said on 15 March, 2016,
13 that when you got to La Casa de Abuela restaurant, Teacher
14 Cotto was already waiting for me in her car?

15 A. I said that she was further from Casa de Abuela. That's
16 why I said she didn't take that long for her to pick me up.
17 She stopped there. When I got to Casa de Abuela, that's
18 when she came down to pick me up.

19 Q. I am going to ask you to read your statement aloud, the
20 portion that you wrote.

21 Do you recognize that statement?

22 MS. GORBEA: Your Honor, the Government is moving
23 for an objection at this moment. This document has not been
24 introduced into evidence.

25 THE COURT: It will not be introduced into

1 evidence because this is a question only for him to admit or
2 not to admit what may be there. But the document is not
3 going in.

4 MS. GORBEA: So the witness cannot --

5 THE COURT: He can read it, but we will see what
6 his question is. Clarify to him.

7 MR. RIVERA-RODRIGUEZ: I am telling him to read
8 the statement.

9 THE COURT: To yourself.

10 MR. RIVERA-RODRIGUEZ: To himself, yes.

11 BY MR. RIVERA-RODRIGUEZ:

12 Q. Did you read it?

13 A. Yes.

14 THE COURT: Hold it. Just pick it up now, the
15 paper. Go pick it up.

16 MR. RIVERA-RODRIGUEZ: I picked it up, Your Honor.

17 THE COURT: Thank you. Return and now ask him the
18 question.

19 BY MR. RIVERA-RODRIGUEZ:

20 Q. Isn't it true that on March 15, 2016, you performed a
21 statement in your own handwriting?

22 A. Correct.

23 Q. And you wrote in that statement that you went to the
24 business known as La Casa de Abuela?

25 A. Correct, to the area.

1 Q. "Where Mrs. Cotto was waiting for me in her car." Isn't
2 that what you wrote?

3 A. A little bit further up, as I mentioned to you before.

4 Q. I am asking you about what you wrote here.

5 A. And I am answering you what I told you before.

6 Q. Please answer --

7 THE COURT: Sir, what he wants to know is if you
8 wrote that she was already there. That's what he wants to
9 know.

10 BY THE WITNESS:

11 A. I did write that she was a little further up, waiting
12 for me to get there. When I got there, she went down to
13 pick me up. But she was there, a little further up.

14 THE COURT: So what does the paper say, the one
15 that you wrote?

16 THE WITNESS: That she was already there at Casa
17 de Abuela.

18 THE COURT: But that is all that is there?

19 THE WITNESS: Correct.

20 THE COURT: Thank you. Next question.

21 MR. RIVERA-RODRIGUEZ: Just a minute, Your Honor.

22 That will be all. No further questions.

23 THE COURT: Does the United States have any
24 redirect?

25 MS. GORBEA: Yes, Your Honor.

1 The Government would like to show Government's
2 Exhibit Number 4.

3 THE COURT: Well, do you have a copy there? Do
4 you have a copy of 4?

5 MS. GORBEA: I don't think so, Your Honor. That
6 is why we are waiting for it to be published.

7 THE COURT: Okay. Very well. Oh, yes.

8 MS. GORBEA: Okay.

9 THE COURT: Go ahead.

10 REDIRECT EXAMINATION

11 BY MS. GORBEA:

12 Q. [REDACTED], you previously mentioned that your name is on the
13 11th row, correct?

14 A. Correct.

15 Q. So if we go to the first column, where the date is,
16 March 1, 2016, do you see that?

17 A. Correct.

18 Q. That information contained therein, is it true or false?

19 A. True.

20 Q. On the next column, where it says -- you mentioned
21 12:45, right?

22 A. Correct.

23 Q. Was that true or false?

24 A. True.

25 Q. The person that signed for your early release, the adult

1 person who signed for your early release, who was it?

2 A. Lydia Mojica.

3 Q. Was that true or false?

4 A. True.

5 MR. RIVERA-FERNANDEZ: Leading, Your Honor.

6 Leading.

7 THE COURT: Overruled.

8 MS. GORBEA: What is leading?

9 THE COURT: Overruled.

10 BY MS. GORBEA:

11 Q. On the column that says "Grade" next to your signature,
12 what does it say?

13 A. "9th grade."

14 Q. Is that true or false?

15 A. True.

16 Q. On the next column, the purpose, where it says "Sick,"
17 do you know who wrote that?

18 A. I don't know who wrote it.

19 Q. Were you sick on that date?

20 A. I wasn't.

21 Q. So the only thing that was false was the excuse that you
22 gave to Mrs. Mojica, correct?

23 A. Correct.

24 Q. When you have mentioned the times that you took to go
25 from one place to the other, were those times an exact time

1 or an approximate time?

2 A. Approximate times.

3 Q. So it could have been a little bit more than what you
4 said or a little bit less than what you said?

5 MR. RIVERA-RODRIGUEZ: Objection, Your Honor;
6 leading.

7 THE COURT: Sustained.

8 BY MS. GORBEA:

9 Q. [REDACTED], after Mrs. Cotto left you, after you left the
10 motel, and you approached the school, whom, if anyone, from
11 the school did you see or did you encounter?

12 A. I'm sorry?

13 Q. Aside from your mother and from the principal, when you
14 arrived at the school, after you left the motel, whom, if
15 anyone, did you meet with?

16 MR. RIVERA-RODRIGUEZ: Objection, Your Honor; this
17 is including people, so I suggest it be open. It's leading.
18 It should be an open question.

19 THE COURT: The Court will ask the United States
20 to make the question only as to -- he said he met with his
21 mother. And then ask him if there was anybody else there,
22 because I don't think he talked about the principal either.
23 So ask him. If that's your interest --

24 MS. GORBEA: Very well.

25 THE COURT: If that's your interest.

1 MS. GORBEA: Yes. Your Honor, can the Exhibit 4
2 be retrieved from the screen? We cannot see the other
3 courtroom.

4 THE COURT: Okay. Go ahead.

5 MS. GORBEA: Thank you.

6 BY MS. GORBEA:

7 Q. [REDACTED], aside from your mother, when you arrived at
8 school, who else did you encounter or did you see?

9 A. Ms. Mulero, the principal of the school.

10 THE COURT: Nobody else?

11 THE WITNESS: I don't remember.

12 MS. GORBEA: The Government has no further
13 questions, Your Honor.

14 MR. RIVERA-RODRIGUEZ: No further questions, Your
15 Honor.

16 THE COURT: The Court only has one or two
17 questions.

18 Could you put back the exhibit that was there, and
19 make it as large as you can.

20 MS. GORBEA: That is Exhibit Number 4.

21 THE COURT: Four. It's on?

22 MS. GORBEA: We can see it clearly here, Your
23 Honor.

24 THE COURT: Okay. So would you look at the word
25 "infirma," which is on what you say is line 11.

1 THE WITNESS: Yes.

2 THE COURT: Look at it carefully. Now, look at
3 the "F" in "infirmas," and look at Number 10, "infirmas" also,
4 and look at the "F" there.

5 THE WITNESS: Okay.

6 THE COURT: All right. And did you sign Number
7 10, "infirmas"?

8 THE WITNESS: No.

9 THE COURT: All right. Sir, you said you went to
10 the motel, and you state that she paid. Did you see her
11 pay?

12 THE WITNESS: Correct.

13 THE COURT: And how did she pay?

14 THE WITNESS: I don't remember.

15 THE COURT: Okay. And how did you get into the
16 room?

17 THE WITNESS: Through the door.

18 THE COURT: Excellent.

19 Did they use a key? Did your companion use a key
20 or did she use a plastic?

21 THE WITNESS: I don't remember.

22 THE COURT: Thank you. I have no further
23 questions. Does that bring in any further questions,
24 Counsel Rivera?

25 MR. RIVERA-RODRIGUEZ: No, Your Honor.

1 THE COURT: Okay.

2 MS. GORBEA: None from the Government, Your Honor.

3 THE COURT: Okay. So I want both counsel to come
4 upstairs. I will wait for you.

5 So the minor is excused.

6 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

7 THE COURT: United States, will we finish the case
8 tomorrow?

9 MS. GORBEA: Yes, Your Honor.

10 THE COURT: You have how many more witnesses?

11 MS. GORBEA: Three witnesses, but they are not
12 going to be long testimonies.

13 THE COURT: So Counsel Rivera, you should be ready
14 to go tomorrow afternoon if that is the determination of the
15 defendant. All right.

16 MR. RIVERA-RODRIGUEZ: We will think about it.

17 THE COURT: Yes, but if it's "think about it,"
18 it's think about it with the witnesses, not think about it
19 and say, No, I will get the witnesses the day after
20 tomorrow.

21 MR. RIVERA-RODRIGUEZ: We understand the Court's
22 position.

23 THE COURT: So be ready.

24 MR. RIVERA-RODRIGUEZ: Yes, Your Honor.

25 THE COURT: All right. So ladies and gentlemen,

1 we are finished for today. Thank you very much for your
2 patience. You now have, as far as I am concerned, a
3 three-hour credit because we had a little problem with the
4 equipment and today we started two hours later.

5 So members of the jury, until this case is
6 submitted to you for your deliberation, you must not discuss
7 this case with anyone, including amongst yourselves or
8 remain within hearing of anyone discussing it. Neither
9 should you read any newspaper article, listen to any radio
10 broadcast nor view any television program which discusses
11 the case. You are ordered not to perform any research on
12 the internet nor read books or newspapers of any type in
13 order to find or seek any matter that you may consider
14 pertinent as to the facts or the law in this case.

15 You are further ordered not to seek advice or
16 consult with anyone relating to the facts or the law from
17 any family member or any other person outside the courtroom.
18 You may, of course, consult at the end of the case during
19 deliberations as to any credibility matter or weight of the
20 evidence with the jurors.

21 Further, insofar as the lawyers are concerned, as
22 well as others whom you may come to recognize as having some
23 connection with the case, you are instructed that in order
24 to avoid even the appearance of impropriety, you should have
25 no conversation whatsoever with those persons while you are

1 serving on the jury.

2 Above all, you are to keep an open mind, and you
3 must not decide any issue in this case until the case is
4 submitted to you for your deliberation under the
5 instructions of the Court.

6 Thank you. And we will see you tomorrow at -- can
7 your witnesses be here at 9:00?

8 MS. GORBEA: Yes.

9 THE COURT: We will try at 9:00 again to see if we
10 can finish. And it's going to be downstairs.

11 MS. GORBEA: Downstairs.

12 THE COURT: It will be on Floor 3. Thank you very
13 much.

14 (PROCEEDINGS ADJOURNED AT 4:36 P.M.)
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1 UNITED STATES DISTRICT COURT)
2) ss.
3 OF PUERTO RICO)
4

5 **REPORTER'S CERTIFICATE**
6
7

8 I, LISA O'BRIEN, do hereby certify that the above
9 and foregoing, consisting of the preceding 131 pages,
10 constitutes a true and accurate transcript of my
11 stenographic notes and is a true and complete transcript of
12 the proceedings to the best of my ability.

13 Dated this 16th day of November, 2018.
14

15 S/Lisa O'Brien
16 Lisa O'Brien
17 USDC Court Reporter
18 708-284-0021
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